

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. report	Summary of Policies of International Organizations (partial) (2 pages)	ca. April, 1998	P1/b(1)
002. letter	James Jones to Kaye Boesel re: IMF and child support proceedings (5 pages)	04/10/98	P1/b(1)

COLLECTION:

Clinton Presidential Records
 Domestic Policy Council
 Cynthia Rice (Subject Files)
 OA/Box Number: 15429

FOLDER TITLE:

Child Support-International Agencies [1]

rx34

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

INITIALS	
APPR:	MWI ...
DRAFT:	KLE ...
CLR 1:	MSO ...
CLR 2:	WIM ...

OPTIONAL FORM 99 (7-91)

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FAX TRANSMITTAL

of pages ▶

To	Scott Busby	From	Lane Boesel
Date/Agency	NSC	Phone #	647-0041
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NSN 7540 01 317-7368		5099-101	
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E.O. 12958: N/A

TAGS: UN, OFDP, AORC

SUBJECT: COURT-ORDERED CHILD AND SPOUSE
SUPPORT/INTERNATIONAL ORGANIZATIONS IMMUNITY

1. THIS IS AN ACTION MESSAGE. USUN, PLEASE SEE PARA 4 AND
OTHER ADDRESSEES, PLEASE SEE PARA 5.

2. DIVORCED SPOUSES OF SOME INTERNATIONAL ORGANIZATION
EMPLOYEES HAVE REPORTED EXTREME DIFFICULTY IN OBTAINING
COURT-ORDERED INFORMATION OR CHILD AND SPOUSE SUPPORT
PAYMENTS BECAUSE THE ORGANIZATIONS HAVE ASSERTED THEIR
IMMUNITY FROM THE JURISDICTION OF THE COURTS AND HAVE NOT
INDEPENDENTLY TAKEN STEPS TO ENSURE THAT THE INFORMATION IS
PROVIDED AND THE PAYMENTS ARE MADE. INFORMAL GROUPS OF
ADVOCATES -- FORMER SPOUSES, FAMILY LAW EXPERTS, EMPLOYEE
ASSOCIATION REPRESENTATIVES -- IN WASHINGTON AND NEW YORK
HAVE COMPLAINED TO THE WHITE HOUSE, CONGRESS, AND THE
DEPARTMENT ABOUT THIS ISSUE.

3. THE DEPARTMENT HAS SENT A DIPLOMATIC NOTE FROM THE
SECRETARY TO ALL INTERNATIONAL ORGANIZATIONS DESIGNATED
UNDER THE INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT (IOIA)
THAT HAVE EMPLOYEES REGISTERED WITH THE DEPARTMENT OF STATE
URGING THEIR VOLUNTARY IMPLEMENTATION OF POLICIES WHICH

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WOULD ENSURE COMPLIANCE BY EMPLOYEES OF THEIR ORGANIZATIONS WITH COURT-ORDERED SPOUSE AND DEPENDENT CHILD PAYMENTS. (SEE TEXT OF NOTE, PARA 6.) ADDITIONALLY, THE SECRETARY HAS SENT PERSONAL COVER NOTES TO THE SECRETARY GENERAL OF THE UN, THE PRESIDENT OF THE WORLD BANK, THE MANAGING DIRECTOR OF THE IMF AND THE PRESIDENT OF THE INTER-AMERICAN DEVELOPMENT BANK, URGING THEIR LEADERSHIP IN RESOLVING THIS PROBLEM. (SEE TEXT OF NOTE, PARA 7.)

4. ACTION REQUEST. USUN IS REQUESTED TO SEND A COPY OF THE DIPLOMATIC NOTE WITH A COVER NOTE FROM USUN TO UNDP, UNICEF and UNFPA FOR THEIR INFORMATION AND ACTION.

5. ACTION REQUEST FOR OTHER ADDRESSEES. MISSIONS ARE NOT BEING ASKED TO MAKE DEMARCHES ON THIS MATTER, BUT SHOULD USE EVERY OPPORTUNITY TO MAKE THE POINTS CONTAINED IN THE DIPLOMATIC NOTE TO THEIR INTERLOCUTORS AS APPROPRIATE. U.S.-BASED OFFICES OF INTERNATIONAL ORGANIZATIONS SUCH AS THE FAO WILL RECEIVE A COPY OF THE DIPLOMATIC NOTE.

6. TEXT OF DIPLOMATIC NOTE:

THE SECRETARY OF STATE PRESENTS HER COMPLIMENTS TO THEIR EXCELLENCIES AND MESSIEURS AND MESDAMES THE CHIEFS OF INTERNATIONAL ORGANIZATIONS DESIGNATED UNDER THE INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT (IOIA) AND HAS THE HONOR TO DRAW TO THEIR ATTENTION AN ISSUE OF IMPORTANCE TO THE UNITED STATES GOVERNMENT; THAT IS, FULL COMPLIANCE BY EMPLOYEES OF INTERNATIONAL ORGANIZATIONS WITH COURT-ORDERED CHILD AND SPOUSE SUPPORT PAYMENTS.

IT IS RECOGNIZED AND GENERALLY ACCEPTED THAT INTERNATIONAL ORGANIZATIONS NEED PRIVILEGES AND IMMUNITIES IN ORDER TO CARRY OUT THEIR FUNCTIONS. THE UNITED STATES GOVERNMENT BELIEVES, HOWEVER, THAT IT IS HIGHLY INAPPROPRIATE FOR INTERNATIONAL ORGANIZATIONS TO ALLOW THEIR PRIVILEGES AND IMMUNITIES TO BE USED BY EMPLOYEES OF THE ORGANIZATIONS TO AVOID MEETING THEIR COURT-ORDERED OBLIGATIONS TO DIVORCED SPOUSES AND DEPENDENT CHILDREN. RECENT CASES DRAWN TO THE ATTENTION OF THE DEPARTMENT OF STATE INDICATE THAT THE PRACTICES AND POLICIES OF SOME INTERNATIONAL ORGANIZATIONS ARE NOT EFFECTIVE IN ENSURING PROMPT COMPLIANCE WITH COURT ORDERS IN FAMILY SEPARATIONS AND DIVORCE PROCEEDINGS INVOLVING EMPLOYEES OF THE ORGANIZATIONS.

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THE SECRETARY OF STATE REQUESTS THAT STEPS BE TAKEN PROMPTLY TO ENSURE THAT ALL INTERNATIONAL ORGANIZATIONS DESIGNATED UNDER THE IOIA VOLUNTARILY PROVIDE COURT-ORDERED OR SUBPOENAED INFORMATION REQUIRED TO DETERMINE THE SALARY AND BENEFITS OF AN EMPLOYEE INVOLVED IN DIVORCE AND FAMILY LAW PROCEEDINGS, AND THAT ALL INTERNATIONAL ORGANIZATIONS VOLUNTARILY TAKE STEPS TO ENFORCE COURT-ORDERED PAYMENTS TO DIVORCED SPOUSES AND DEPENDENT CHILDREN. MOREOVER, THE SECRETARY OF STATE REQUESTS THAT THE INTERNATIONAL ORGANIZATIONS UNDERTAKE TO ENSURE THAT THE INTERNATIONAL ORGANIZATIONS' POLICIES AND PRACTICES IN THIS REGARD ARE TRANSPARENT AND READILY AVAILABLE TO EMPLOYEES AND SPOUSES WHO MAY BE ENGAGED IN FAMILY SEPARATION AND DIVORCE PROCEEDINGS.

THE SECRETARY OF STATE COMMENDS THOSE INTERNATIONAL ORGANIZATIONS WHICH HAVE ALREADY TAKEN STEPS TO ESTABLISH SUCH PRACTICES AND POLICIES, AND ENCOURAGES OTHERS TO DO SO AS SOON AS POSSIBLE. OTHERWISE, THE PERCEPTION THAT IMMUNITIES ARE BEING USED TO AVOID JUST FINANCIAL OBLIGATIONS IS LIKELY TO LEAD TO THE IMPOSITION OF NON-VOLUNTARY REMEDIES WHICH MAY RESULT IN EITHER A DIMINUTION OF PRIVILEGES AND IMMUNITIES UNDER THE IOIA OR PROTRACTED LITIGATION, NEITHER OF WHICH IS IN THE BEST INTEREST OF THE INTERNATIONAL ORGANIZATIONS COMMUNITY.

THE UNITED STATES GOVERNMENT IS CONSIDERING VARIOUS MEANS TO ADDRESS THIS PROBLEM. TO ENABLE THE DEPARTMENT OF STATE TO REPRESENT ACCURATELY TO OTHER ENTITIES OF THE UNITED STATES GOVERNMENT THE INTERNATIONAL ORGANIZATIONS' POLICIES AND PRACTICES WITH RESPECT TO COURT-ORDERED CHILD AND SPOUSE SUPPORT, AS WELL AS THE MEASURES TAKEN TO INFORM EMPLOYEES AND SPOUSES OF THESE PRACTICES AND POLICIES, THE CHIEFS OF THE INTERNATIONAL ORGANIZATIONS ARE ALSO REQUESTED TO PROVIDE THE DEPARTMENT OF STATE WITH THE MOST CURRENT INFORMATION AVAILABLE ABOUT THEIR ORGANIZATION ON THIS SUBJECT. ADDITIONALLY, THE ORGANIZATIONS ARE REQUESTED TO INFORM THE DEPARTMENT OF STATE OF THE NAME AND TITLE OF THE PERSON CHARGED WITH THE RESPONSIBILITY FOR DEVELOPING AND IMPLEMENTING SUCH POLICIES AND PRACTICES SO THAT THE DEPARTMENT OF STATE MAY CONSULT FURTHER AS NEEDED. REPLIES SHOULD BE FORWARDED BY AUGUST 1 THROUGH THE U.S. REPRESENTATIVE TO THE INTERNATIONAL ORGANIZATION, OR, IN THE ABSENCE OF A U.S. REPRESENTATIVE OR MISSION, DIRECTLY TO THE ATTENTION OF MS. KAYE BOESEL, INTERNATIONAL ORGANIZATIONS BUREAU, DEPARTMENT OF STATE, WASHINGTON, D.C. 20520-6334.

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7. TEXT OF LETTER TO THE SECRETARY GENERAL.

DEAR MR. SECRETARY GENERAL:

I HAVE SENT THE ENCLOSED DIPLOMATIC NOTE TO ALL OF THE INTERNATIONAL ORGANIZATIONS DESIGNATED UNDER THE INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT THAT HAVE EMPLOYEES REGISTERED WITH THE DEPARTMENT OF STATE, SEEKING THEIR VOLUNTARY EFFORTS TO ENSURE THAT COURT-ORDERED CHILD- AND SPOUSE-SUPPORT PAYMENTS INVOLVING EMPLOYEES OF THEIR ORGANIZATIONS ARE MADE, AND THAT EMPLOYEES ARE NOT PERMITTED TO USE THE ORGANIZATIONS' IMMUNITY TO SHIELD THEMSELVES FROM THEIR PERSONAL OBLIGATIONS.

THIS IS AN ISSUE WHERE THE RIGHT AND JUST COURSE OF ACTION IS READILY APPARENT. IT IS ALSO ONE WHERE THE NATURAL INSTINCT TO "PROTECT" THE ORGANIZATION BY INVOKING IMMUNITY MAY NOT SERVE OUR GREATER INTEREST IN PROTECTING THE WELFARE OF CHILDREN AND SPOUSES WHO HAVE BEEN A PART OF THE UN COMMUNITY. INVOKING IMMUNITY, IF UNACCOMPANIED BY MEASURES WHICH EFFECTIVELY ADDRESS THE DIFFICULTIES THAT INSTITUTIONAL IMMUNITY CREATES FOR SPOUSES AND CHILDREN, IS WRONG. I BELIEVE THAT THE UNITED NATIONS MUST BE A MODEL FOR THE HIGHEST STANDARDS OF SOCIAL RESPONSIBILITY, AND THUS THE MEANS MUST BE FOUND TO CARRY OUT THE RIGHT AND JUST COURSE OF ACTION. NEITHER OF US WANTS THE UNITED NATIONS TO PROTECT -- OR TO BE SEEN AS PROTECTING -- INDIVIDUALS WHO REFUSE TO PROVIDE FOR THEIR CHILDREN AND FORMER SPOUSES.

I AM APPEALING TO YOU TO USE YOUR GOOD OFFICES TO ENSURE THAT THE UNITED NATIONS' PRACTICES AND POLICIES WITH RESPECT TO COURT-ORDERED CHILD AND SPOUSE SUPPORT ARE PROPERLY DESIGNED AND CARRIED OUT. YOUR LEADERSHIP WILL MAKE A DIFFERENCE.

SINCERELY,

MADELEINE K. ALBRIGHT

YY

NAIROBI PRIORITY
ROME PRIORITY Y

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FROM

(WED) 7. 29 '98 12:31/ST. 12:27/NO. 4260060003 P 2
119 Jan Percy

The World Bank
Washington, D.C. 20433
U.S.A.

JAMES D. WOLFENSOHN
President

FILE COPY

SS C
cc: JP
7/2

July 20, 1998

The Honorable
Madeleine Albright
Secretary of State
U.S. Department of State
2201 C. Street, N.W.
Washington, D.C., 20520

My dear Madeline -

I refer to your letter and diplomatic note dated July 8, 1998. The entities that comprise the World Bank Group (the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, and the International Center for Settlement of Investment Disputes) have long considered it the duty of their staff to abide by court orders for child-support and spouse-support payments.

The Bank's longstanding practice has been to refer court orders to the Bank's Office of Professional Ethics. Under the Bank's Staff Rules, failure to comply with a valid court order constitutes misconduct, and the Ethics Office investigates allegations of staff members' failure to pay child-support or spouse-support in order to determine whether misconduct has occurred. In cases where the Ethics Office determines that a staff member has, in fact, not complied with court-ordered payments, the result can be disciplinary action against the staff member, including termination.

Most staff have been advised of the Bank's policy and practice in this area in various training programs, including those established by the Ethics Office. Spouses who contact the Bank are referred to the Ethics Office, which explains the Bank's policies to them.

In the past, this practice has led to a rather successful record of staff complying with their financial obligations while, at the same time, preserving the Bank's privileges and immunities as accorded by its Articles of Agreement, international treaties, and U.S. law. It has not, however, totally eliminated complaints that some Bank staff continue to refuse to comply with court-ordered payments. I believe that it is time to move forward towards an even more efficient resolution of these problems. Therefore, I have decided

July 20, 1998

that the World Bank will put into place procedures to ensure the enforcement of court ordered child-support or spouse-support payments. In addition, with respect to information relating to a staff member's salary and benefits, the World Bank's policy will soon be revised so that the Bank will voluntarily provide such information upon receipt of a valid court order or subpoena in divorce or child-support proceedings. I will immediately inform all Bank staff of this new policy.

We will take this action on a voluntary basis and without ~~waiving~~ any of our existing privileges and immunities. We will cease to take action in cases where the Bank receives competing court orders from different jurisdictions. As an international organization with Bank staff who come from all over the world and with offices in more than one hundred countries, it would be an impossible task to impose upon the Bank to sort out competing court orders from the courts of different member countries.

If you require further information about the Bank's policies in this area, please contact Ms. Donna Zalusky in the Office of Professional Ethics at (202) 473-0277.

I hope that the World Bank can once again demonstrate its leadership on these issues and move forward to protect the welfare of children and former spouses of our staff members.



Sincerely yours,



James D. Wolfensohn

cc: Ms. Jan Piercy, Executive Director

CONSTANCE A. MORELLA

8TH DISTRICT, MARYLAND

COMMITTEE ON SCIENCE
SUBCOMMITTEE ON BASIC RESEARCH

CHAIR,
SUBCOMMITTEE ON TECHNOLOGY

COMMITTEE ON GOVERNMENT
REFORM AND OVERSIGHT
SUBCOMMITTEE ON CIVIL SERVICE

VICE CHAIR,
SUBCOMMITTEE ON THE DISTRICT OF COLUMBIA



Congress of the United States
House of Representatives

November 21, 1997

2228 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515

(202) 225-5341

FAX: (202) 225-1389

EMAIL: rep.morella@mail.house.gov

51 MONROE STREET
SUITE 507

ROCKVILLE, MD 20850

(301) 424-3501

FAX: (301) 424-5992

The Honorable Bill Clinton
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear President Clinton:

DEC 1 1997

I write to call your attention to a great miscarriage of justice. I know how interested you are in promoting the welfare of America's children, and I appreciate your support of strict reforms passed by Congress to ensure that United States citizens fulfill their obligations to support their families.

Unfortunately, this family support legislation does not protect thousands of unfortunate women and children living in the United States who do not receive the basic support they need to survive. The fathers are able to avoid responsibility, simply because they are employed by international organizations chartered in the United States, which refuse to cooperate in any way with American courts in family support cases. These institutions employ more than 70,000 people throughout the world, including at least 25,000 in the United States.

Although the employees enjoy generous salaries and lucrative pension benefits, their dependent wives and children are often penniless after divorce or separation. These organizations will not furnish the courts with salary information needed to process a petition for support. Unlike other recipients of support orders, these spouses and children cannot collect court ordered child support or alimony, because the institutions refuse to garnish wages or institute wage withholding in compliance with family support orders. This lack of cooperation has had devastating consequences.

Those divorced from retired United Nations, World Bank, IMF or Inter-American Development Bank employees have absolutely no recourse. The pensions are still completely immune from court orders, and the pension funds refuse to divulge any information regarding the value of an employee's pension benefit or payments. Long-term spouses receive absolutely nothing after divorce. Even worse, victims of domestic abuse, usually women, are trapped. If they leave their abusers, they have no health insurance and no means of support.

Each institution claims that the limited jurisdictional immunity granted by the International Organizations Immunities Act, 22 USC § 288, entitles it to shield its employees, including United States citizens and others who do not enjoy diplomatic immunity from their

family support obligations. This is wrong. Neither Congress nor the administration intended that international organizations would use this limited immunity to protect highly paid "deadbeat dads" from their child support obligations.

It has been conceded by counsel for the Inter-American Development Bank, in court, that this can be rectified by executive order. I urge you to sign an executive order withdrawing the immunity of these organizations to state court jurisdiction in family support cases. You have the power to enable thousands of women to collect the spousal share of the pension and to collect millions of dollars of support from highly paid "deadbeat dads." I urge you to use it.

Sincerely,



Constance A. Morella
Member of Congress

CAM:csp

BARBARA A. MIKULSKI
MARYLAND

COMMITTEES:

APPROPRIATIONS

LABOR AND HUMAN RESOURCES

SUITE 709
HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-2003
(202) 224-4654
TTY: (202) 224-5223

United States Senate

WASHINGTON, DC 20510-2003

January 12, 1998

0433

The President
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

JAN 15 - 2:55

Dear Mr. President:

Knowing of your strong support for enforcing child support, I wanted to alert you to a situation which enables some parents to evade their responsibility to provide support for their children.

International organizations chartered in the United States, such as the World Bank, the International Monetary Fund and the Inter-American Development Bank, refuse to cooperate with American courts in family support cases. These organizations will not provide the courts with the information needed to process a petition for support. They refuse to garnish wages in compliance with court orders.

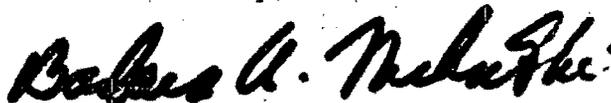
Because these international institutions refuse to cooperate, spouses cannot collect court ordered child support or alimony. In many cases, children are left penniless. Maryland residents have told me of cases in which an American employee of the Inter-American Development Bank receives a salary of over one hundred thousand dollars -- yet provides nothing for his young children, who live in poverty. This situation affects both American citizens and foreign nationals.

This situation is absolutely unacceptable. These international organizations are supported in part by US taxpayers. They must not be a haven for deadbeat parents who want to avoid their responsibilities to their own children.

I understand that this problem could be solved by Executive Order. I urge you to do this. As a member of the Senate Appropriations Subcommittees that fund these organizations, I will also seek ways to require them to assist in the collection of court ordered child support payments.

If you need more information on this matter, please have your staff contact Julia Frifield of my staff at 224-4654.

Sincerely,



Barbara A. Mikulski
United States Senator

BAM:jf

THE WHITE HOUSE

WASHINGTON

March 18, 1998

Dear Barbara:

Thank you for your letter regarding enforcement of child and spousal support orders against employees of several international organizations headquartered in the United States.

I understand that most of these organizations have in recent years adopted measures to encourage their employees to comply with obligations under U.S. law, including child and spousal support payment orders. Although I applaud these efforts, I share your concern that there may still be too many instances of non-compliance.

So that we can determine how to best address this issue, I have asked the Department of State to conduct a careful review of cases where employees of international organizations are not complying with applicable court orders. We would appreciate your sharing any information you may have about such cases with the Office of the Legal Advisor at the Department of State. The review will include an examination of the feasibility of an Executive order of the type you describe in your letter. We will let you know what conclusions we reach.

Thank you for bringing this important matter to my attention.

Sincerely,

Bar

The Honorable Barbara A. Mikulski
United States Senate
Washington, D.C. 20510

THE WHITE HOUSE

WASHINGTON

March 18, 1998

Dear Representative Morella:

Thank you for your letter regarding enforcement of child and spousal support orders against employees of several international organizations headquartered in the United States.

I understand that most of these organizations have in recent years adopted measures to encourage their employees to comply with obligations under U.S. law, including child and spousal support payment orders. Although I applaud these efforts, I share your concern that there may still be too many instances of non-compliance.

So that we can determine how to best address this issue, I have asked the Department of State to conduct a careful review of cases where employees of international organizations are not complying with applicable court orders. We would appreciate your sharing any information you may have about such cases with the Office of the Legal Advisor at the Department of State. The review will include an examination of the feasibility of an Executive order of the type you describe in your letter. We will let you know what conclusions we reach.

Thank you for bringing this important matter to my attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Clinton", with a long, sweeping underline.

The Honorable Constance A. Morella
House of Representatives
Washington, D.C. 20515



National Child Support Enforcement Association

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702-455-2190

BARD SHOLLENBERGER

202-414-3614

PATRICIA SPEAR

402-334-4445

JOEL K. BANKES

Executive Director

May 7, 1998

The President
The White House
1600 Pennsylvania Ave. N.W.
Washington, D.C. 20500

Re: Request for Executive Order

Dear Mr. President:

The National Child Support Enforcement Association (NCSEA) joins the American Bar Association Section of Family Law in requesting the removal of immunity of international organizations to state court jurisdiction in family support cases involving their employees.

Since 1952, the primary mission of NCSEA has been to protect the well-being of children through effective law enforcement. This mission has been effectively thwarted by organizations invoking immunity from child support enforcement under the International Organizations Immunities Act (1945) 22 U.S.C. 288 (IOIA). Despite a growing arsenal of enforcement tools, this Nation's 55,000 child support workers are powerless against over 70 international organizations designated by Executive Order to enjoy the absolute immunity offered by the IOIA. As a result child support cases involving employees working for IOIA are either closed or never opened on IV-D agencies automated systems. Fortunately, the IOIA also gives the President the power, by Executive Order to modify, limit, condition, or revoke these organizations' immunities.

In the interest of our children, NCSEA requests that you exercise your authority under the IOIA to issue appropriate executive orders immediately removing the immunity of international organizations to state court jurisdiction in family support cases involving their employees.

Respectfully,

Gary Caswell
Vice President, International Reciprocity
Assistant Attorney General, Texas

MAY 18 8:56

3597



AMERICAN BAR ASSOCIATION

Section of Family Law
750 North Lake Shore Drive
Chicago, IL 60611
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FAX: (312) 988-6800
E-MAIL: familylaw@abanet.org
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May 13, 1998

Reply To:

The President
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Dear Mr. President:

The American Bar Association's Section of Family Law submits these comments in support of removing the immunity of international organizations to state court jurisdiction in family support cases involving their employees. The views expressed herein are presented on behalf of the Section of Family Law. They have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the position of the Association. However, the comments are consistent with current policy which supports the use of garnishment to secure payments of family support.

The Section of Family Law urges use of the power granted you by the International Organizations Immunities Act, 22 U.S.C. §288 et seq, to issue an executive order removing the immunity of international organizations to state court jurisdiction in family support cases involving their employees.

International organizations appear to be deeply committed to the long-standing policy of protecting their employees from legal obligations to support former spouses and children. They have responded to recent State Department inquiries by claiming that, although the spouses and children used to have difficulty in obtaining income information needed to process support petitions, and were often unable to collect child support and alimony from international organization employees, various policy changes made in 1995 eliminated the problem. In fact, family law attorneys, child support caseworkers and those actively involved in the process have experienced otherwise.

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Page Two
May 13, 1998

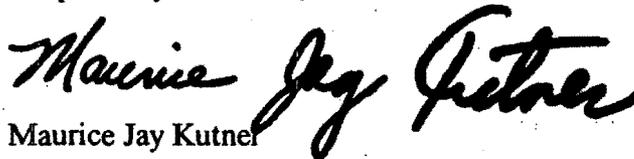
The positions taken by international organizations have prevented state courts from ordering the release of information necessary to identify income and assets of employees and, as a result, the ability to fashion equitable and enforceable orders has been severely diminished. Additionally, courts have been powerless to secure assets to prevent their unilateral dissipation by a litigant or to compel the payment of family support awards through garnishment.

For example, the National Child Support Enforcement Association was asked in Summer, 1997 to support private litigation in the federal court in the District of Columbia based on the effort of an individual litigant to collect past due child support and enforce a judgment arising from the divorce through a garnishment process. Because the defendant, the Inter-American Development Bank, routinely wired the payor's wages directly to a foreign bank account, enforcement of the judgment was extraordinarily difficult. The practical result is that families and children are left without adequate means of support and the family court is powerless to effectuate its orders.

As you know, the House of Representatives agreed on March 26, 1998 to the Conference Report on State Department Authorization bill, HR 1752. Sponsored by NY Congressman Lazio, this bill addresses the sense of Congress regarding compliance with child and spousal support obligations by United Nations personnel.

The Section recognizes the emotional and economic suffering of children and former spouses caused by nonpayment of family support or distribution of assets upon which a dependent spouse relies. For these reasons, we urge removing the immunity of international organizations to state court jurisdiction in family support cases involving their employees.

Respectfully submitted,



Maurice Jay Kutner
Section Chair

NATIONAL SECURITY COUNCIL

Aug 5

Cynthia —

Here are
background docs on
the family support issue
in cases where one
space works for an
international organization.

Let me know if you
have thoughts/questions.

Scott Busby
6 9141

ACTION NEEDED TO CURB ABUSE OF IOIA IN FAMILY SUPPORT CASES

Congress has passed strict reforms to ensure that United States citizens fulfill their obligations to support their families, yet tens of thousands of women and children living in metropolitan New York and Washington, D.C. do not receive the basic support they need to survive. The fathers are able to avoid responsibility, simply because they are employed by the U. N., the World Bank, the International Monetary Fund, or the Inter-American Development Bank. These institutions collectively employ nearly 70,000 people throughout the world; 23,000 of whom work the United States, including 14,000 in Washington, D.C. and 9,000 in New York City.

Although the employees enjoy generous salaries and lucrative pension benefits, their dependant wives and children are often penniless after divorce or separation. These institutions will not furnish the courts with salary information needed to process a petition for support. Unlike other recipients of support orders, these spouses and children cannot collect court ordered child support or alimony, because the World Bank, the IMF, the UN and the IADB refuse to garnish wages or institute wage withholding in compliance with family support orders. They will not cooperate in any way with the courts of any state or nation in family support cases.

Those divorced from retired United Nations, World Bank, IMF or Inter-American Development Bank employees have absolutely no recourse. The pensions are still completely immune from court orders, and the pension funds refuse to divulge any information regarding the value of an employee's pension benefit or payments. Long-term spouses receive absolutely nothing after divorce. Those remaining in this country often resort to public assistance.

Although the World Bank and IMF will pay a portion of the pension benefit to a spouse or former spouse, upon request of the employee, her survivor benefit is extinguished upon divorce. Any protection this policy offers a former spouse is illusory. Even after an assignment has been made, the World Bank and IMF will allow the employee to withdraw the entire lump sum without notifying the former spouse, or to transfer the pension interest to another international institution, which will not honor the prior assignment. Pension plans of each of these organizations need to be amended, to permit judicial attachment of the spousal share of employee pensions by Federal, State or local court orders upon divorce.

Victims of domestic abuse, generally women, are trapped. If they leave their abusers, these women have no health insurance and no adequate means of support. Unable to become self-supporting, many receive welfare benefits in Maryland, Virginia, Connecticut, New Jersey, New York and the District of Columbia, while their former husbands continue to enjoy luxurious life styles. Desperate, emotionally fragile, and far from home, many of these women attempt suicide. Other of these women and their children are homeless, living in shelters and on the streets in the United States or their home countries.

Each institution claims that the limited jurisdictional immunity granted by the International Organizations Immunities Act ("IOIA), 22 USC § 288 entitles it to shield its employees, including United States citizens and other who do not enjoy diplomatic immunity, from their family support obligations. The IOIA confers on international organizations the same restrictive immunity enjoyed by foreign governments, pursuant to the Foreign Sovereign Immunities Act of 1976, 28 USC § 1602 et seq. That restrictive immunity protects foreign entities from suits arising from their governmental or sovereign political activities, but not from suits arising from private or commercial activities. It does not protect the institutions' employees from claims arising from their private acts. Congress certainly did not intend or expect that international organizations would use this limited immunity to protect highly paid "dead beat dads" from their child support obligations or to trap thousands of women and children in violent relationships.

Three examples illustrate this abuse.

Divorced from a World Bank employee after more than 20 years of mental and physical abuse, W, a naturalized U.S. citizen lives in Maryland with her youngest daughter. She is over fifty, has no health insurance and no savings. Her former husband, whose net of tax income exceeds \$100,000. per year, makes support payments if and when he chooses. W cannot collect support arrears which exceed \$40,000, because the World Bank refuses to garnish his wages. W cannot collect a penny of the \$200,000. which the court awarded her to replace the spousal share of his World Bank pension. W and her daughter survive only with help from her relatives.

S, a naturalized U.S. citizen and a resident of Maryland, was 17 years old when she came to the United States as the bride of a World Bank employee. Separated from her husband after 24 years of marriage, she is both destitute and permanently disabled as a result of her husband's abuse. She and her daughter have received food stamps and other welfare benefits. An adequate support order was never entered in her case, because neither her husband nor the World Bank would reveal his salary. She has received food stamps and other welfare benefits. S will lose her health insurance when her divorce becomes final. She is severely depressed and has attempted suicide because she is unable to work and is afraid her daughters will be burdened with her care.

R, a United States citizen and IDB employee deserted his wife of 26 years and 4 minor children in Maryland in 1992. During divorce proceedings, he claimed he did not know the amount of his salary or the value of his pension. The IDB refused to furnish this information to the court. Family support orders were entered, based upon his significant underestimate of his IDB income. The IDB refuses to garnish his salary and regularly wires his earnings to a foreign bank account. This man's support payments have often been intermittent. In 1995, when his IDB salary exceeded \$220,000, he paid no child support or alimony during a period of four months. R filed a bankruptcy petition in an attempt to discharge the monetary award, an award designed to compensate his former

wife for the spousal share of his IDB pension. He was denied a discharge on the basis of fraud. The IDB retained outside legal counsel to defeat the wife's efforts to garnish R's salary to collect accrued support arrearages and other outstanding judgment debts. She will be forced to file for bankruptcy protection.

Congress can rectify all of these family support problems by inserting appropriate "report language" in the appropriations bills for each of these institutions. Representative Lazio of New York has provided an excellent model in his amendment to H.R. 1757, 143 Cong. Rec. 75, 3430, 105th Cong. 1st Sess. (1997), attached hereto as Ex. 1.

The IOIA gives the President the power to solve the jurisdictional problem:

The President shall be authorized...by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this subchapter...or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. 22 USC § 288 (Attached as Ex.2).

One stroke of the President's pen, would make each of these institutions subject to the jurisdiction of any American court in family support cases. This would enable thousands of women to attach the spousal share of the pension and to collect support from highly paid "dead beat dads." It would release thousands of economically enslaved women and children from the cycle of abuse in which they are trapped. The United States Government has waived its own immunity to state court proceedings for enforcement of child support and alimony obligations. See 42 USC 659, (attached as Ex. 3). This may provide a useful model for drafting an executive order or an amendment to the IOIA, subjecting international agencies to state court jurisdiction for income withholding, garnishment, judicial attachment of pension benefits, and similar proceedings for enforcement of child support and alimony obligations.

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EXHIBIT 1
REPRESENTATIVE LAZIO'S AMENDMENT
TO
H.R. 1757

uncooperative nation, so I believe that this Congress ought to go on record as a sense of Congress resolution to say that we are tired of Syria's nonsense, we are not going to stand idly by, that if we are going to apply all sanctions upon Iran and Libya due to their terrorist and extremist policies Syria ought to be treated no differently.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York Mr. Engel .

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. ENGEL. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 159, further proceedings on the amendment offered by the gentleman from New York Mr. Engel will be postponed.

Are there any other amendments?

Amendment Offered by Mr. Lazio of New York

Mr. LAZIO of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lazio of New York: At the end of title XVII (relating to foreign policy provisions) insert the following:

SEC. 1717. SENSE OF CONGRESS REGARDING COMPLIANCE WITH CHILD AND SPOUSAL SUPPORT OBLIGATIONS BY UNITED NATIONS PERSONNEL.

(a) Sense of Congress.--It is the sense of the Congress that--

(1) all United Nations staff, including diplomats, should comply with binding United States Federal, State, and local court orders regarding child and spousal support obligations;

(2) the internal regulations of the United Nations allows--
(A) the United Nations to release staff salary information to the courts in spousal and child support cases;

(B) the Secretary General to authorize deduction of dependency related allowances from staff salary;

(C) the United Nations to cooperate with appropriate authorities to facilitate proper legal or judicial resolution of the family's claim.

(b) Congressional Statement.--The Secretary of State should

urge the United Nations to fully comply with regulations regarding compliance with child and spousal support obligations by United Nations personnel, in a timely manner and to the fullest extent possible.

(c) Limitation on Payment of Arrearages to the United Nations.--Notwithstanding any other provision of this Act, of funds appropriated for the payment of United States arrearages to the United Nations out of funds authorized to be appropriated by this Act, \$10,000,000 shall not be available until the Secretary of State certifies that--

(1) the United Nations is actively enforcing child and spousal support payments in compliance with Federal, State, and local court orders; and

(2) the United Nations is actively reforming its pension policy, making the United Nations pension fund subject to Federal, State, or local court orders of spousal or child support.

Mr. LAZIO of New York (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

time 2200

Mr. LAZIO of New York. Mr. Chairman, we have a chance tonight to help the United Nations enforce its own rules.

We have passed strict reforms in Congress to ensure that our citizens in America fulfill their obligations to their children and their spouses, yet many children and former spouses living in New York have not received the basic support they need to survive. As a matter of fact, I should extend that to my neighboring States of Connecticut and New Jersey as well. Their spouses are not bound by our laws to provide or even to furnish the courts with the salary information needed to process their claims. They are able to avoid responsibility simply because they are employed by the United Nations.

In most family support cases, a family who fails to comply with court orders could have their wages garnished. They may even face jail time. But this is not the case, however, with U.N. staff. Until 1994, the United Nations would not release any information regarding the salary of its employees. Even with the court order of support, spouses and

children were left without payment and without recourse. In effect, the United Nations staffers living in New York had no obligations to their families. Lacking any legal remedy, their spouses and children were simply abandoned in American cities.

In 1994 the United Nations finally issued a directive encouraging employees to address their personal obligations, yet the United Nations has been dragging its feet in providing family courts with salary information and in taking action against its employees. The U.N. Family Rights Committee, a volunteer organization based in New York, is currently addressing over 40 cases of women having difficulty obtaining support. Clearly, these regulations need stronger enforcement.

While the Family Rights Committee has made some progress, people whose spouses have retired from the United Nations still have absolutely no recourse. The United Nations' pensions are still completely immune from court orders, and the United Nations Joint Staff Pension Fund refuses to divulge any information regarding pension payments. I might add, Mr. Chairman, in a recent inquiry to one of the staffers as to why that occurs, the answer was that the people over there were old and in their old ways. Totally unacceptable.

Women divorced from a retired United Nations employee legally entitled to support are left virtually stranded. We can expect no less, no less from the United Nations than we expect of our own citizens.

This amendment directs the United Nations to comply with its own internal rules regarding family support and to apply those rules to its pension policy, allowing U.S. courts and former spouses some recourse once a U.N. official has retired. Further, it limits the payment of U.S. arrearages to the United Nations until the Secretary of State can certify that the U.N. is making these reforms, bringing the standards of the U.N. in line with those of the United States. I understand that the Members of the minority had some concerns with this, so we have tried to narrow the scope of this.

Congress has tried to ensure that U.S. citizens meet their responsibilities, and we must not accept less from the staff of the United Nations. We expect the U.N. staff to be held to the highest standards of competence, efficiency, and integrity in their professional conduct. We should expect it in their personal conduct as well. In short, the United States Congress cannot support a United Nations that does not support its own family.

Mr. SMITH of New Jersey. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to applaud the gentleman from New York Mr. Lazio for his fine amendment. I think he helps the issue of deadbeat dads or parents and will, I think, make a very strong statement to the U.N. simply to enforce their own regulations. They

[*H3431]

ought to be a shining example rather than something other than that. So I think he does a very good service, and the linkages to arrearages could not come at a better time. So I rise in strong support of the amendment.

Mr. CAPPS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend the gentleman for the work he has put into this amendment. We all recognize that there is a strong desire in Congress for greater accountability for U.N. staff, a great need for U.N. reform. We also agree that U.N. employees should comply with and meet their family obligations. But the real question is, what is the best way to promote such policy?

I and we do not think that withholding our U.N. arrears is the most effective way to promote such actions by U.N. employees. We also suspect that there are thorny legal issues that need to be dealt with here regarding the ability of the United States courts to compel compliance by international civil servants.

So I would ask the gentleman to withdraw the amendment and urge him to bring this concern to the bipartisan bicameral United Nations Working Group under the leadership of Senator Trent Lott. Clearly, this is a serious issue that needs to be addressed, but I believe that that would be the most appropriate context and framework for addressing this issue.

Mr. LAZIO of New York. Mr. Chairman, will the gentleman yield?

Mr. CAPPS. I yield to the gentleman from New York.

Mr. LAZIO of New York. Mr. Chairman, I would just remind the gentleman from California Mr. Capps, who I have a great deal of respect for, the fact is that this is the United Nations' own rules. We are asking them to enforce their own rules.

Up until 1994, they did not even cooperate with the least amount of information that is needed to try and provide for this collection so that spouses and children could survive on the streets. It is a matter of, I think, basic ethics and morality.

I think it is absolutely the right position for America to have to expect that U.N. employees living in America should respect their own family obligations, and this is not a situation that is new; it is something that has been complained about for quite some time. As a matter of fact, there is a whole organization, a volunteer organization that has been developed in response to the United Nations policies with respect to this.

We have tried to narrow the scope of this amendment so that only \$10 million can be held back in response to some of the concerns that the gentleman has, which I understand, but without this leverage, more spouses and more children are going to be left out there holding the

bag. And that should not be acceptable to this House.

Mr. CAPPS. Mr. Chairman, reclaiming my time, I understand the gentleman's concern, but in order to proceed in proper order, since we already have a bipartisan, bicameral working group under the leadership of Senator Lott dealing with a wide variety of U.N. issues, I would prefer that this matter be placed on their agenda and dealt with in that fashion, because it is interrelated to other issues with which that committee is dealing.

The CHAIRMAN pro tempore (Mr. Dickey). The question is on the amendment offered by the gentleman from New York Mr. Lazio .

The amendment was agreed to.

Amendment Offered by Mr. PALLONE

Mr. PALLONE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Pallone: At the end of title XVII (relating to foreign policy provisions) insert the following new section:

SEC. 1717. SENSE OF CONGRESS REGARDING DEVELOPMENT OF
AZERBAIJAN'S CASPIAN SEA PETROLEUM RESERVES.

It is the sense of the Congress that--

(1) the President should seek cooperation from the governments of Armenia, Azerbaijan, and Turkey, as well as private companies with an interest in developing Azerbaijan's Caspian Sea petroleum reserves, to encourage the construction of a pipeline route from Azerbaijan through Armenia that could reach Turkey and Mediterranean sea ports; and

(2) such a route for a pipeline should in no way prejudice other trans-Caucasus pipeline routes, but would help to promote stability and economic growth in the Caucasus region, improving relations between neighboring countries and the United States.''

Mr. PALLONE. Mr. Chairman, I am submitting this amendment on behalf of myself and my colleague, the gentleman from California Mr. Radanovich .

The amendment simply recognizes the importance to U.S. national interests of promoting regional cooperation between Armenia, Azerbaijan and Turkey. Encouraging the construction of an oil pipeline from Azerbaijan through Armenia to Turkish ports is a tangible way to

EXHIBIT 2

INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT

22 USC § 288

UNITED STATES CODE SERVICE
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*** THIS SECTION IS CURRENT THROUGH 105-32, APPROVED 8/1/97 ***

TITLE 22. FOREIGN RELATIONS AND INTERCOURSE
CHAPTER 7. INTERNATIONAL BUREAUS, CONGRESSES, AND THE LIKE
PRIVILEGES AND IMMUNITIES OF INTERNATIONAL ORGANIZATIONS

22 USCS @ 288 (1997)

@ 288. Definition of "international organization"; authority of President

For the purposes of this title, the term "international organization" means a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation, and which shall have been designated by the President through appropriate Executive order as being entitled to enjoy the privileges, exemptions, and immunities herein provided. The President shall be authorized, in the light of the functions performed by any such international organization, by appropriate Executive order to withhold or withdraw from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for in this title (including the amendments made by this title) or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity. The President shall be authorized, if in his judgment such action should be justified by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities herein provided or for any other reason, at any time to revoke the designation of any international organization under this section, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this title.

HISTORY: (Dec. 29, 1945, ch 652, Title I, @ 1, 59 Stat. 669.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"This title", referred to in this section, is Title I of Act Dec. 29, 1945, ch 652, 59 Stat. 669, which appears generally as 22 USCS @@ 288 et seq. For full classification of suc²otle, consult USCS Tables volumes.

Short titles:

Act Dec. 29, 1945, Title I, @ 10, 59 Stat. 673, provided: "This title [22 USCS @@ 288 et seq. generally; for full classification, consult USCS Tables volumes] may be cited as the 'International Organizations Immunities Act'."

Other provisions:

Administrative supplies for international organizations. Act Aug. 4, 1947, ch 479, 61 Stat. 752, popularly known as the "International Organizations Procurement Act of 1947", provided for the procurement and furnishing of administrative supplies by the Treasury Department to international organizations until July 1, 1948.

International organizations entitled to enjoy the privileges, exemptions,

designated by Ex. Or. No. 10533 of June 3, 1954, 19 Fed. Reg. 3289.

The Organization of Eastern Caribbean States, designated by Ex. Or. No. 12669 of Feb. 20, 1989, 54 Fed. Reg. 7753.

The Pacific Salmon Commission, designated by Ex. Or. No. 12567 of Oct. 2, 1986, 51 Fed. Reg. 35495.

The Pan American Health Organization (includes the Pan American Sanitary Bureau), designated by Ex. Or. No. 10864 of Feb. 19, 1960, 25 Fed. Reg. 1507.

The Preparatory Commission of the International Atomic Energy Agency, designated by Ex. Or. No. 10727 of Aug. 31, 1957, 22 Fed. Reg. 7099.

Provisional Intergovernmental Committee for the Movement of Migrants from Europe (Intergovernmental Committee for European Migration), designated by Ex. Or. No. 10335 of March 28, 1952, 17 Fed. Reg. 2741.

The South Pacific Commission, designated by Ex. Or. No. 10086 of Nov. 25, 1949, 14 Fed. Reg. 7147.

The United International Bureau for the Protection of Intellectual Property, designated by Ex. Or. No. 11484 of Sept. 29, 1969, 34 Fed. Reg. 15337.

The United Nations, designated by Ex. Or. No. 9698 of Feb. 19, 1946, 11 Fed. Reg. 1809.

The United Nations Educational, Scientific, and Cultural Organization, designated by Ex. Or. No. 9863 of June 2, 1947, 12 Fed. Reg. 3559.

The United Nations Industrial Development Organization, designated by Ex. Or. No. 12628 of March 8, 1988, 53 Fed. Reg. 7725.

The Universal Postal Union, designated by Ex. Or. No. 10727 of Aug. 31, 1957, 22 Fed. Reg. 7099.

The World Health Organization, designated by Ex. Or. No. 10025 of Dec. 30, 1948, 13 Fed. Reg. 9361.

The World Intellectual Property Organization (WIPO), designated by Ex. Or. No. 11866 of June 18, 1975, 40 Fed. Reg. 26015.

The World Meteorological Organization, designated by Ex. Or. No. 10676 of Sept. 4, 1956, 21 Fed. Reg. 6625.

The World Tourism Organization, designated by Ex. Or. No. 12508 of March 22, 1985, 50 Fed. Reg. 11837.

International organizations formerly entitled to enjoy the privileges, exemptions, and immunities conferred by 22 USCS @@ 288 et seq. Executive orders designating international organizations as public international organizations entitled to enjoy privileges, exemptions, and immunities conferred by 22 USCS @@ 288 et seq. were revoked as follows:

The Caribbean Commission, designated by Ex. Or. No. 10025 of Dec. 30, 1948, 13 Fed. Reg. 9361; revoked by Ex. Or. No. 10983 of Dec. 30, 1961, 27 Fed. Reg. 32.

The Coffee Study Group, designated by Ex. Or. No. 10943 of May 19, 1961, 26 Fed. Reg. 4419; revoked by Ex. Or. No. 12033 of Jan. 10, 1978, 43 Fed. Reg. 1915.

The Inter-American Coffee Board, designated by Ex. Or. No. 9751 of July 12, 1946, 11 Fed. Reg. 7713; revoked by Ex. Or. No. 10083 of Oct. 11, 1949, 14 Fed. Reg. 6161.

The Intergovernmental Committee on Refugees, designated by Ex. Or. No. 9823 of Jan. 24, 1947, 12 Fed. Reg. 551; revoked by Ex. Or. No. 10083 of Oct. 11, 1949, 14 Fed. Reg. 6161.

The Interim Communications Satellite Committee, designated by Ex. Or. No. 11227 of June 2, 1965, 30 Fed. Reg. 7369; revoked by Ex. Or. No. 11718 of May 14, 1973, 38 Fed. Reg. 12797.

The International Refugee Organization, designated by Ex. Or. No. 9887 of Aug. 22, 1947, 12 Fed. Reg. 5723; revoked by Ex. Or. No. 10832 of Aug. 18, 1959, 24 Fed. Reg. 6753.

The International Telecommunications Satellite Consortium, designated by

Ex. Or. No. 11277 of May 2, 1966, 31 Fed. Reg. 6609; revoked by Ex. Or. No. 11718 of May 14, 1973, 38 Fed. Reg. 12797.

The Lake Ontario Claims Tribunal, designated by Ex. Or. No. 11372 of Sept. 20, 1967, 32 Fed. Reg. 13251; revoked by Ex. Or. No. 11439 of Dec. 7, 1968, 33 Fed. Reg. 18257.

The Southeast Asia Treaty Organization, designated by Ex. Or. No. 10866 of Feb. 23, 1960, 25 Fed. Reg. 1584; revoked by Ex. Or. No. 12033 of Jan. 10, 1978, 43 Fed. Reg. 1915.

The United Nations Relief and Rehabilitation Administration, designated by Ex. Or. No. 9698 of Feb. 19, 1946, 11 Fed. Reg. 1809; revoked by Ex. Or. No. 10083 of Oct. 11, 1949, 14 Fed. Reg. 6161.

Revocation of Ex. Or. No. 9721 providing for transfer of personnel to public international organizations. Ex. Or. No. 9721 of May 10, 1946, 11 Fed. Reg. 5209, as amended by Ex. Or. No. 10103 of Feb. 1, 1950, 15 Fed. Reg. 597, which formerly appeared as a note to this section, and which provided for the transfer of Federal Government personnel to public international organizations, was revoked by Ex. Or. No. 10804 of Feb. 12, 1959, @ 2, 24 Fed. Reg. 1147, subject to certain savings provisions. Ex. Or. No. 10804 was subsequently revoked by Ex. Or. No. 11552 of Aug. 24, 1970, 35 Fed. Reg. 13569, and Ex. Or. No. 9721 of May 10, 1946, 11 Fed. Reg. 5209, as amended by Ex. Or. No. 10103 of Feb. 1, 1950, 15 Fed. Reg. 597, was subsequently revoked by Ex. Or. No. 12553 of Feb. 25, 1986, 51 Fed. Reg. 7237.

North Pacific Marine Science Organization. Ex. Or. No. 12894 of Jan. 26, 1994, 59 Fed. Reg. 4237, provides: "By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1 of the International Organizations Immunities Act (59 Stat. 669, 22 U.S.C. 288), and having found that the North Pacific Marine Science Organization is a public international organization in which the United States participates within the meaning of the International Organizations Immunities Act [Act Dec. 29, 1945, ch 652, 59 Stat. 669, which enacted this section, among other things; for full classification, consult USCS Tables volumes], I hereby designate the North Pacific Marine Science Organization as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act. This designation is not intended to abridge in any respect privileges, exemptions, or immunities, which such organization may have acquired or may acquire by international agreements or by congressional action."

North Pacific Anadromous Fish Commission. Ex. Or. No. 12895 of Jan. 26, 1994, 59 Fed. Reg. 4239, provides: "By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1 of the International Organizations Immunities Act (59 Stat. 669, 22 U.S.C. 288), and having found that the North Pacific Anadromous Fish Commission is a public international organization in which the United States participates within the meaning of the International Organizations Immunities Act [Act Dec. 29, 1945, ch 652, 59 Stat. 669, which enacted this section, among other things; for full classification, consult USCS Tables volumes], I hereby designate the North Pacific Anadromous Fish Commission as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act. This designation is not intended to abridge in any respect privileges, exemptions, or immunities, which such organization may have acquired or may acquire by international agreements or by congressional action."

Commission for Environmental Cooperation, Commission for Labor Cooperation, Border Environment Cooperation Commission, and North American Development Bank. Ex. Or. No. 12904 of March 16, 1994, 59 Fed. Reg. 13179, provides: "By the

The International Cotton Advisory Committee, designated by Ex. Or. No. 9911 of Dec. 22, 1947, 12 Fed. Reg. 8719.

The International Cotton Institute, designated by Ex. Or. No. 11283 of May 27, 1966, 31 Fed. Reg. 7667.

The International Criminal Police Organization (INTERPOL) (limited privileges), designated by Ex. Or. No. 12425 of June 16, 1983, 48 Fed. Reg. 28069; Ex. Or. No. 12971 of Sept. 15, 1995, 60 Fed. Reg. 48617.

The International Development Association, designated by Ex. Or. No. 11966 of Jan. 19, 1977, 42 Fed. Reg. 4331.

The International Development Law Institute, designated by Ex. Or. No. 12842 of March 29, 1993, 58 Fed. Reg. 17081.

The International Fertilizer Development Center, designated by Ex. Or. No. 11977 of March 14, 1977, 42 Fed. Reg. 14671.

The International Finance Corporation, designated by Ex. Or. No. 10680 of Oct. 4, 1956, 21 Fed. Reg. 7647.

The International Food Policy Research Institute, designated by Ex. Or. No. 12359 of April 22, 1982, 47 Fed. Reg. 17791.

The International Fund for Agricultural Development, designated by Ex. Or. No. 12732 of Oct. 31, 1990, 55 Fed. Reg. 46489.

The International Hydrographic Bureau, designated by Ex. Or. No. 10769 of May 29, 1958, 23 Fed. Reg. 3801.

The International Joint Commission--United States and Canada, designated by Ex. Or. No. 9972 of June 28, 1948, 13 Fed. Reg. 4920.

The International Labor Organization, designated by Ex. Or. No. 9698 of Feb. 19, 1946, 11 Fed. Reg. 1809.

International Maritime Satellite Organization, designated by Ex. Or. No. 12238 of Sept. 12, 1980, 45 Fed. Reg. 60877.

The International Monetary Fund,, designated by Ex. Or. No. 9751 of July 12, 1946, 11 Fed. Reg. 7713.

The International Pacific Halibut Commission, designated by Ex. Or. No. 11059 of Oct. 23, 1962, 27 Fed. Reg. 10405.

The International Secretariat for Volunteer Service, designated by Ex. Or. No. 11363 of July 20, 1967, 32 Fed. Reg. 10779.

The International Telecommunication Union, designated by Ex. Or. No. 9863 of June 2, 1947, 12 Fed. Reg. 3559.

The International Telecommunications Satellite Organization (INTELSAT), designated by Ex. Or. No. 11718 of May 14, 1973, 38 Fed. Reg. 12797; Ex. Or. No. 11966 of Jan. 19, 1977, 42 Fed. Reg. 4331.

The International Union for Conservation of Nature and Natural Resources (limited privileges), designated by Ex. Or. No. 12986 of Jan. 18, 1996, 61 Fed. Reg. 1693.

The International Wheat Advisory Committee (International Wheat Council), designated by Ex. Or. No. 9823 of Jan. 24, 1947, 12 Fed. Reg. 551.

The Korean Peninsula Energy Development Organization, designated by Ex. Or. No. 12997 of April 1, 1996, 61 Fed. Reg. 14949.

The Multilateral Investment Guarantee Agency, designated by Ex. Or. No. 12647 of Aug. 2, 1988, 53 Fed. Reg. 29323.

The Multinational Force and Observers, designated by Ex. Or. No. 12359 of Apr. 22, 1982, 47 Fed. Reg. 17791.

The Organization for European Economic Cooperation (Organization for Economic Cooperation and Development), designated by Ex. Or. No. 10133 of June 27, 1950, 15 Fed. Reg. 4159.

The Organization of African Unity (OAU), designated by Ex. Or. No. 11767 of Feb. 19, 1974, 39 Fed. Reg. 6603.

The Organization of American States (including Pan American Union),

and immunities conferred by 22 USCS @@ 288 et seq. The following international organizations have been designated as public international organizations entitled to enjoy the privileges, exemptions, and immunities conferred by 22 USCS @@ 288 et seq.:

- The African Development Bank, designated by Ex. Or. No. 12403 of Feb. 8, 1983, 48 Fed. Reg. 6087.
- The African Development Fund, designated by Ex. Or. No. 11977 of March 14, 1977, 42 Fed. Reg. 14671.
- The Asian Development Bank, designated by Ex. Or. No. 11334 of March 7, 1967, 32 Fed. Reg. 3933.
- The Caribbean Organization, designated by Ex. Or. No. 10983 of Dec. 30, 1961, 27 Fed. Reg. 32.
- The Commission for the Study of Alternatives to the Panama Canal, designated by Ex. Or. No. 12567 of Oct. 2, 1986, 51 Fed. Reg. 35495.
- The Customs Cooperation Council, designated by Ex. Or. No. 11596 of June 5, 1971, 36 Fed. Reg. 11079.
- The European Bank for Reconstruction and Development, designated by Ex. Or. No. 12766 of June 18, 1991, 56 Fed. Reg. 28463.
- The European Space Agency, designated by Ex. Or. No. 11318 of Dec. 5, 1966, 31 Fed. Reg. 15307; Ex. Or. No. 11351 of May 22, 1967, 32 Fed. Reg. 7561; Ex. Or. No. 11760 of Jan. 17, 1974, 39 Fed. Reg. 2343; Ex. Or. No. 12766 of June 18, 1991, 56 Fed. Reg. 28463.
- The Food and Agriculture Organization, designated by Ex. Or. No. 9698 of Feb. 19, 1946, 11 Fed. Reg. 1809.
- The Great Lakes Fishery Commission, designated by Ex. Or. No. 11059 of Oct. 23, 1962, 27 Fed. Reg. 1040
- The Inter-American Defense Board, designated by Ex. Or. No. 10228 of March 26, 1951, 16 Fed. Reg. 2676.
- The Inter-American Development Bank, designated by Ex. Or. No. 10873 of April 8, 1960, 25 Fed. Reg. 3097, as amended Ex. Or. No. 11019 of Apr. 30, 1962, 27 Fed. Reg. 4145.
- The Inter-American Institute of Agricultural Sciences, designated by Ex. Or. No. 9751 of July 12, 1946, 11 Fed. Reg. 7713.
- The Inter-American Investment Corporation, designated by Ex. Or. No. 12567 of Oct. 2, 1986, 51 Fed. Reg. 35495.
- The Inter-American Statistical Institute, designated by Ex. Or. No. 9751 of July 12, 1946, 11 Fed. Reg. 7713.
- The Inter-American Tropical Tuna Commission, designated by Ex. Or. No. 11059 of Oct. 23, 1962, 27 Fed. Reg. 10405.
- The Intergovernmental Maritime Consultative Organization, designated by Ex. Or. No. 10795 of Dec. 16, 1958, 23 Fed. Reg. 9709.
- The International Atomic Energy Agency, designated by Ex. Or. No. 10727 of Aug. 31, 1957, 22 Fed. Reg. 7099.
- The International Bank for Reconstruction and Development, designated by Ex. Or. No. 9751 of July 12, 1946, 11 Fed. Reg. 7713.
- The International Boundary and Water Commission, United States and Mexico, designated by Ex. Or. No. 12467 of March 2, 1984, 49 Fed. Reg. 8229.
- The International Centre for Settlement of Investment Disputes, designated by Ex. Or. No. 11966 of Jan. 19, 1977, 42 Fed. Reg. 4331.
- The International Civil Aviation Organization, designated by Ex. Or. No. 9863 of June 2, 1947, 12 Fed. Reg. 3559.
- The International Coffee Organization, designated by Ex. Or. No. 11225 of May 22, 1965, 30 Fed. Reg. 7093.
- The International Committee of the Red Cross, designated by Ex. Or. No. 12643 of June 23, 1988, 53 Fed. Reg. 24247.

EXHIBIT 3

CONSENT BY THE UNITED STATES TO INCOME WITHHOLDING,
GARNISHMENT, AND SIMILAR PROCEEDINGS
FOR THE ENFORCEMENT OF
CHILD SUPPORT AND ALIMONY OBLIGATIONS
42 USC § 659

42 USCS @ 659 (1997) printed in FULL format.

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*** THIS SECTION IS CURRENT THROUGH 105-12, APPROVED 4/30/97 ***

TITLE 42. THE PUBLIC HEALTH AND WELFARE
CHAPTER 7. SOCIAL SECURITY ACT
TITLE IV. GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN
AND FOR CHILD-WELFARE SERVICES
PART D. CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

42 USCS @ 659 (1997)

@ 659. Consent by the United States to income withholding, garnishment, and similar proceedings for enforcement of child support and alimony obligations

(a) Consent to support enforcement. Notwithstanding any other provision of law (including section 207 of this Act [42 USCS @ 407] and section 5301 of title 38, United States Code), effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the Armed Forces of the United States, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to withholding in accordance with State law enacted pursuant to subsections (a) (1) and (b) of section 466 [42 USCS @ 666(a) (1), (b)] and regulations of the Secretary under such subsections, and to any other legal process brought, by a State agency administering a program under a State plan approved under this part [42 USCS @@ 651 et seq.] or by an individual obligee, to enforce the legal obligation of the individual to provide child support or alimony.

(b) Consent to requirements applicable to private person. With respect to notice to withhold income pursuant to subsection (a) (1) or (b) of section 466 [42 USCS @ 666(a) (1) or (b)], or any other order or process to enforce support obligations against an individual (if the order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the moneys involved), each governmental entity specified in subsection (a) shall be subject to the same requirements as would apply if the entity were a private person, except as otherwise provided in this section.

(c) Designation of agent; response to notice or process.

(1) Designation of agent. The head of each agency subject to this section shall--

(A) designate an agent or agents to receive orders and accept service of process in matters relating to child support or alimony; and

(B) annually publish in the Federal Register the designation of the agent or agents, identified by title or position, mailing address, and telephone number.

(2) Response to notice or process. If an agent designated pursuant to paragraph (1) of this subsection receives notice pursuant to State procedures in effect pursuant to subsection (a) (1) or (b) of section 466 [42 USCS @

42 USCS @ 659 (1997)

666(a) (1) or (b)], or is effectively served with any order, process, or interrogatory, with respect to an individual's child support or alimony payment obligations, the agent shall--

(A) as soon as possible (but not later than 15 days) thereafter, send written notice of the notice or service (together with a copy of the notice or service) to the individual at the duty station or last-known home address of the individual;

(B) within 30 days (or such longer period as may be prescribed by applicable State law) after receipt of a notice pursuant to such State procedures, comply with all applicable provisions of section 466 [42 USCS @ 666]; and

(C) within 30 days (or such longer period as may be prescribed by applicable State law) after effective service of any other such order, process, or interrogatory, respond to the order, process, or interrogatory.

(d) Priority of claims. If a governmental entity specified in subsection (a) receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than 1 person--

(1) support collection under section 466(b) [42 USCS @ 666(b)] must be given priority over any other process, as provided in section 466(b) (7) [42 USCS @ 666(b) (7)];

(2) allocation of moneys due or payable to an individual among claimants under section 466(b) [42 USCS @ 666(b)] shall be governed by section 466(b) [42 USCS @ 666(b)] and the regulations prescribed under such section; and

(3) such moneys as remain after compliance with paragraphs (1) and (2) shall be available to satisfy any other such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

(e) No requirement to vary pay cycles. A governmental entity that is affected by legal process served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary its normal pay and disbursement cycle in order to comply with the legal process.

(f) Relief from liability.

(1) Neither the United States, nor the government of the District of Columbia, nor any disbursing officer shall be liable with respect to any payment made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if the payment is made in accordance with this section and the regulations issued to carry out this section.

(2) No Federal employee whose duties include taking actions necessary to comply with the requirements of subsection (a) with regard to any individual shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by the employee in connection with the carrying out of such actions.

(g) Regulations. Authority to promulgate regulations for the implementation of this section shall, insofar as this section applies to moneys due from (or payable by)--

(1) the United States (other than the legislative or judicial branches of the Federal Government) or the government of the District of Columbia, be vested in the President (or the designee of the President);

(2) the legislative branch of the Federal Government, be vested jointly in the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees), and

(3) the judicial branch of the Federal Government, be vested in the Chief Justice of the United States (or the designee of the Chief Justice).

(h) Moneys subject to process.

(1) In general. Subject to paragraph (2), moneys paid or payable to an individual which are considered to be based upon remuneration for employment, for purposes of this section--

(A) consist of--

(i) compensation paid or payable for personal services of the individual, whether the compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

(ii) periodic benefits (including a periodic benefit as defined in section 228(h)(3) [42 USCS @ 428(h)(3)]) or other payments--

(I) under the insurance system established by title II [42 USCS @@ 401 et seq.];

(II) under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

(III) as compensation for death under any Federal program;

(IV) under any Federal program established to provide "black lung" benefits;
or

(V) by the Secretary of Veterans Affairs as compensation for a service-connected disability paid by the Secretary to a former member of the Armed Forces who is in receipt of retired or retainer pay if the former member has waived a portion of the retired or retainer pay in order to receive such compensation; and

(iii) worker's compensation benefits paid under Federal or State law but

(B) do not include any payment--

(i) by way of reimbursement or otherwise, to defray expenses incurred by the individual in carrying out duties associated with the employment of the individual; or

(ii) as allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code [37 USCS @@ 401 et seq.], as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty.

(2) Certain amounts excluded. In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which--

(A) are owed by the individual to the United States;

(B) are required by law to be, and are, deducted from the remuneration or other payment involved, including Federal employment taxes, and fines and forfeitures ordered by court-martial;

(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1986 [26 USCS @ 3402(i)] may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding);

(D) are deducted as health insurance premiums;

(E) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage); or

(F) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

(i) Definitions. For purposes of this section--

(1) United States. The term "United States" includes any department, agency, or instrumentality of the legislative, judicial, or executive branch of the Federal Government, the United States Postal Service, the Postal Rate Commission, any Federal corporation created by an Act of Congress that is wholly owned by the Federal Government, and the governments of the territories and possessions of the United States.

(2) Child support. The term "child support", when used in reference to the legal obligations of an individual to provide such support, means amounts required to be paid under a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement, and which may include other related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.

(3) Alimony.

(A) In general. The term "alimony", when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of the individual, and (subject to and in accordance with State law) includes separate maintenance, alimony pendente lite, maintenance, and spousal support, and includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

(B) Exceptions. Such term does not include--

(i) any child support; or

(ii) any payment or transfer of property or its value by an individual to the spouse or a former spouse of the individual in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

(4) Private person. The term "private person" means a person who does not have sovereign or other special immunity or privilege which causes the person not to be subject to legal process.

(5) Legal process. The term "legal process" means any writ, order, summons, or other similar process in the nature of garnishment--

(A) which is issued by--

(i) a court or an administrative agency of competent jurisdiction in any State, territory, or possession of the United States;

(ii) a court or an administrative agency of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor the process; or

(iii) an authorized official pursuant to an order of such a court or an administrative agency of competent jurisdiction or pursuant to State or local law; and

(B) which is directed to, and the purpose of which is to compel, a governmental entity which holds moneys which are otherwise payable to an individual to make a payment from the moneys to another party in order to satisfy a legal obligation of the individual to provide child support or make alimony payments.

HISTORY: (Aug. 14, 1935, ch 531, Title IV, Part D, @ 459, as added Jan. 4, 1975, P.L. 93-647, Part B, @ 101(a), 88 Stat. 2357; May 23, 1977, P.L. 95-30, Title V, @ 501(a), (b), 91 Stat. 157; Apr. 20, 1983, P.L. 98-21, Title III, Part C, @ 335(b)(1), 97 Stat. 130.)

(As amended Aug. 22, 1996, P.L. 104-193, Title III, Subtitle G, @ 362(a), 110 Stat. 2242.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

EFFECTIVE DATE OF SECTION:

Act Jan. 4, 1975, P.L. 93-647, Part B, @ 101(f), 88 Stat. 2361, June 30, 1975, P.L. 94-46, @ 2, 89 Stat. 245, which appears as 42 USCS @ 451 note, provided that this section is effective Jan. 1, 1975.

AMENDMENTS:

1977. Act May 23, 1977, designated the existing material as subsec. (a) and, in such subsection as so designated, substituted "or the District of Columbia (including any agency, subdivision, or instrumentality thereof)" for "(including any agency or instrumentality thereof and any wholly owned Federal Corporation)", and inserted "or the District of Columbia"; and added subsecs. (b) -- (f).

1983. Act April 20, 1983, in subsec. (a), inserted "(including section 207)".

1996. Act Aug. 22, 1996 (effective 6 months after enactment, as provided by @ 362(d) of such Act, which appears as a note to this section, but subject to @ 395(b) and (c) of such Act, which appear as 42 USCS @ 654 note) substituted this section for one which read:

"Enforcement of individual's legal obligations to provide child support or make alimony payments

"(a) United States and District of Columbia to be subject to legal process. Notwithstanding any other provision of law (including section 207), effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the armed services, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to legal process brought for the enforcement, against such individual of his legal obligations to provide child support or make alimony payments.

"(b) Methods of service of legal process. Service of legal process brought for the enforcement of an individual's obligation to provide child support or make alimony payments shall be accomplished by certified or registered mail, return receipt requested, or by personal service, upon the appropriate agent designated for receipt of such service of process pursuant to regulations promulgated pursuant to section 461 (or, if no agent has been designated for the governmental entity having payment responsibility for the moneys involved, then upon the head of such governmental entity). Such process shall be accompanied by sufficient data to permit prompt identification of the individual and the moneys involved.

"(c) Disclosure of information in answering interrogatories; disciplinary action or civil or criminal liability or penalty prohibited. No Federal employee whose duties include responding to interrogatories pursuant to requirements imposed by section 461(b)(3) shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by him in connection with the carrying out of any of his duties which pertain (directly or indirectly) to the answering of any such interrogatory.

"(d) Notice. Whenever any person, who is designated by law or regulation to accept service of process to which the United States is subject under this section, is effectively served with any such process or with interrogatories relating to an individual's child support or alimony payment obligations, such person shall respond thereto within thirty days (or within such longer period as may be prescribed by applicable State law) after the date effective service

thereof is made, and shall, as soon as possible but not later than fifteen days after the date effective service is so made of any such process, send written notice that such process has been so served (together with a copy thereof) to the individual whose moneys are affected thereby at his duty station or last-known home address.

"(e) Variance in normal pay and disbursement cycles not required. Governmental entities affected by legal processes served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary their normal pay and disbursement cycles in order to comply with any such legal process.

"(f) Non-liability of United States, disbursing officers, and governmental entities with respect to payments. Neither the United States, any disbursing officer, nor governmental entity shall be liable with respect to any payment made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if such payment is made in accordance with this section and the regulations issued to carry out this section."

OTHER PROVISIONS:

Revocation of Ex. Or. No. 11881; savings provision. Ex. Ord. No. 11881, Oct. 3, 1975, 40 F.R. 46291, which related to the delegation of authority to issue regulations for the implementation of the provisions of this section, was revoked by Ex. Ord. No. 12105, Dec. 19, 1978, 43 F.R. 59465, which appears as 42 USCS @ 661 note.

Actions required of all executive agencies to facilitate payment of child support. Ex. Or. No. 12953 of Feb. 27, 1995, 60 Fed. Reg. 11013, provides:

"Children need and deserve the emotional and financial support of both their parents.

"The Federal Government requires States and, through them, public and private employers to take actions necessary to ensure that monies in payment of child support obligations are withheld and transferred to the child's caretaker in an efficient and expeditious manner.

"The Federal Government, through its civilian employees and Uniformed Services members, is the Nation's largest single employer and as such should set an example of leadership and encouragement in ensuring that all children are properly supported.

"NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, it is hereby ordered as follows:

"PART I--PURPOSE

"Section 101. This executive order: (a) Establishes the executive branch of the Federal Government, through its civilian employees and Uniformed Services members, as a model employer in promoting and facilitating the establishment and enforcement of child support.

"(b) Requires all Federal agencies, including the Uniformed Services, to cooperate fully in efforts to establish paternity and child support orders and to enforce the collection of child and medical support in all situations where such actions may be required.

"(c) Requires each Federal agency, including the Uniformed Services, to provide information to its employees and members about actions that they should take and services that are available to ensure that their children are provided the support to which they are legally entitled.

"PART 2---DEFINITIONS

"For purposes of this order:

"Sec. 201. 'Federal agency' means any authority as defined at 5 U.S.C. 105, including the Uniformed Services, as defined in section 202 of this order.

"Sec. 202. 'Uniformed Services' means the Army, Navy, Marine Corps, Air Force, Coast Guard, and the Commissioned Corps of the National Oceanic and Atmospheric Administration, and the Public Health Service.

"Sec. 203. 'Child support enforcement' means any administrative or judicial action by a court or administrative entity of a State necessary to establish paternity or establish a child support order, including a medical support order, and any actions necessary to enforce a child support or medical support order. Child support actions may be brought under the civil or criminal laws of a State and are not limited to actions brought on behalf of the State or individual by State agencies providing services under title IV-D of the Social Security Act, 42 U.S.C. 651 et seq.

"Sec. 204. 'State' means any of the fifty States, the District of Columbia, the territories, the possessions, and the Commonwealths of Puerto Rico and of the Mariana Islands.

"PART 3--IMMEDIATE ACTIONS TO ENSURE CHILDREN ARE SUPPORTED BY THEIR PARENTS

"Sec. 301. Wage withholding. (a) Within 60 days from the date of this order, every Federal agency shall review its procedures for wage withholding under 42 U.S.C. 659 and implementing regulations to ensure that it is in full compliance with the requirements of that section, and shall endeavor, to the extent feasible, to process wage withholding actions consistent with the requirements of 42 U.S.C. 666(b).

"(b) Beginning no later than July 1, 1995, the Director of the Office of Personnel Management (OPM) shall publish annually in the Federal Register the list of agents (and their addresses) designated to receive service of withholding notices for Federal employees.

"Sec. 302. Service of legal process. Every Federal agency shall assist in the service of legal process in civil actions pursuant to orders of courts of States to establish paternity and establish or enforce a support obligation by making Federal employees and members of the Uniformed Services stationed outside the United States available for the service of process. Each agency shall designate an official who shall be responsible for facilitating a Federal employee's or member's availability for service of process, regardless of the location of the employee's workplace or member's duty station. The OPM shall publish a list of these officials annually in the Federal Register, beginning no later than July 1, 1995.

"Sec. 303. Federal parent locator. Every Federal agency shall cooperate with the Federal Parent Locator Service, established under 42 U.S.C. 653, by providing complete, timely and accurate information that will assist in locating noncustodial parents and their employers.

"Sec. 304. Crossmatch for delinquent obligors. (a) The master file of delinquent obligors that each State child support enforcement agency submits to the Internal Revenue Service for Federal income tax refund offset purposes shall be matched at least annually with the payroll or personnel files of Federal agencies in order to determine if there are any Federal employees with child support delinquencies. The list of matches shall be forwarded to the appropriate State child support enforcement agency to determine, in each instance, whether wage withholding or other enforcement actions should be commenced. All matches will be performed in accordance with 5 U.S.C. 552a(o)-(u).

"(b) All Federal agencies shall inform current and prospective employees that crossmatches are routinely made between Federal personnel records and State records on individuals who owe child support, and inform employees how to initiate voluntary wage withholding requests.

"Sec. 305. Availability of service. All Federal agencies shall advise current and prospective employees of services authorized under title IV-D of the Social Security Act that are available through the States. At a minimum, information shall be provided annually to current employees through the Employee Assistance Program, or similar programs, and to new employees during routine orientation.

"Sec. 306. Report on actions taken. Within 90 days of the date of this order, all Federal agencies shall report to the Director of the Office of Management and Budget (OMB) on the actions they have taken to comply with this order and any statutory, regulatory, and administrative barriers that hinder them from complying with the requirements of part 3 of this order.

"PART 4-ADDITIONAL ACTIONS"

"Sec. 401. Additional review for the uniformed services. (a) In addition to the requirements outlined above, the Secretary of the Department of Defense (DOD) will chair a task force, with participation by the Department of Health and Human Services (HHS), the Department of Commerce, and the Department of Transportation, that shall conduct a full review of current policies and practices within the Uniformed Services to ensure that children of Uniformed Services personnel are provided financial and medical support in the same manner and within the same time frames as is mandated for all other children due such support. This review shall include, but not be limited to, issues related to withholding non-custodial parents' wages, service of legal process, activities to locate parents and their income and assets, release time to attend civil paternity and support proceedings, and health insurance coverage under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). All relevant existing statutes, including the Soldiers and Sailors Civil Relief Act of 1940 [50 USCS Appx. @@ 501 et seq.], the Uniformed Services Former Spouses Protection Act [Act Sept. 8, 1982, P.L. 97-252, Title X, 96 Stat. 730; for full classification, consult USCS Tables volumes], and the Tax Equity and Fiscal Responsibility Act of 1982 [Act Jan. 6, 1983, P.L. 97-424, 96 Stat. 2097; for full classification, consult USCS Tables volumes], shall be reviewed and appropriate legislative modifications shall be identified.

"(b) Within 180 days of the date of this order, DOD shall submit to OMB a report based on this review. The report shall recommend additional policy, regulatory and legislative changes that would improve and enhance the Federal Government's commitment to ensuring parental support for all children.

"Sec. 402. Additional Federal agency actions. (a) OPM and HHS shall jointly study and prepare recommendations concerning additional administrative, regulatory, and legislative improvements in the policies and procedures of Federal agencies affecting child support enforcement. Other agencies shall be included in the development of recommendations for specific items as appropriate. The recommendations shall address, among other things:

"(i) any changes that would be needed to ensure that Federal employees comply with child support orders that require them to provide health insurance coverage for their children;

"(ii) changes needed to ensure that more accurate and up-to-date data about civilian and uniformed personnel who are being sought in conjunction with State paternity or child support actions can be obtained from Federal agencies and their payroll and personnel records, to improve efforts to locate noncustodial parents and their income and assets;

"(iii) changes needed for selecting Federal agencies to test and evaluate new approaches to the establishment and enforcement of child support obligations;

"(iv) proposals to improve service of process for civilian employees and members of the Uniformed Services stationed outside the United States, including the possibility of serving process by certified mail in establishment and enforcement cases or of designating an agent for service of process that would have the same effect and bind employees to the same extent as actual service upon the employees;

"(v) strategies to facilitate compliance with Federal and State child support requirements by quasi-governmental agencies, advisory groups, and commissions; and

"(vi) analysis of whether compliance with support orders should be a factor used in defining suitability for Federal employment.

"(b) The recommendations are due within 180 days of the date of this order. The recommendations are to be submitted in writing to the Office of Management and Budget.

"Sec. 501. Internal management. This order is intended only to improve the internal management of the executive branch with regard to child support enforcement and shall not be interpreted to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its officers, or any other person.

"Sec. 502. Sovereignty of the United States Government. This order is intended only to provide that the Federal Government has elected to require Federal agencies to adhere to the same standards as are applicable to all other employers in the Nation and shall not be interpreted as subjecting the Federal Government to any State law or requirement. This order should not be construed as a waiver of the sovereign immunity of the United States Government or of any existing statutory or regulatory provisions, including 42 U.S.C. 659, 662, and 665; 5 CFR Part 581; 42 CFR Part 21, Subpart C; 32 CFR Part 54; and 32 CFR Part 81.

"Sec. 503. Defense and security. This order is not intended to require any action that would compromise the defense or national security interest of the United States."

Effective date of amendments made by @ 362 of Act Aug. 22, 1996. Act Aug. 22, 1996, P.L. 104-193, Title III, Subtitle G, @ 362(d), 110 Stat. 2247, provides: "The amendments made by this section [amending 5 USCS @ 5520a(h), (i), 10 USCS @ 1408, and 42 USCS @ 659 and repealing 42 USCS @@ 661, 662] shall become effective 6 months after the date of enactment of this Act."

NOTES:

CODE OF FEDERAL REGULATIONS

Civil service regulations for processing garnishment orders for child support and/or alimony, 5 CFR Part 581.

Garnishment of benefits paid under the Railroad Retirement Act and the Railroad Unemployment Insurance Act. 20 CFR Part 350.

Railroad retirement board, garnishment of remuneration of Board personnel, 20 CFR Part 363.

Garnishment of pay of Naval military and civilian personnel for collection of child support and alimony, 32 CFR Part 734.

Add:

32 CFR Part 818.

CROSS REFERENCES

42 USCS @ 659 (1997)

This section is referred to in 10 USCS @ 1408; 42 USCS @@ 661, 662.

RESEARCH GUIDE

FEDERAL PROCEDURE L ED:

Enforcement of Judgments, Fed Proc, L Ed, @@ 31:6, 31:32.
 Government Officers and Employees, Fed Proc, L Ed, @@ 40:624-40:628.
 Health, Education, and Welfare, Fed Proc, L Ed, @@ 42:503-42:507.

AM JUR:

6 Am Jur 2d, Atomic Energy @ 78.
 6 Am Jur 2d, Attachment @@ 17, 78, 176, 179.5, 182.
 24 Am Jur 2d, Divorce and Separation @@ 764, 766.
 30 Am Jur 2d, Executions and Enforcement of Judgments (1994) @ 658.
 32 Am Jur 2d, Federal Practice @ 60.
 70A Am Jur 2d, Social Security and Medicare @ 1145.

FORMS:

6A Federal Procedural Forms L Ed, Creditors' Provisional Remedies @@ 19:1, 2, 11, 81, 82, 91.
 1A Am Jur Legal Forms 2d, Alimony and Separation Agreements @ 17:2.
 13A Am Jur Legal Forms 2d, Parent and Child @ 191:52.

SOCIAL SECURITY LAW AND PRACTICE:

3 Soc Sec LP, Applications and Payments @@ 35:110, 112.

ANNOTATIONS:

Construction and application of 42 USCS @ 659(a) authorizing garnishment against United States or District of Columbia for enforcement of child support and alimony obligations. 44 ALR Fed 494.

Sufficiency, as to content, of notice of garnishment required to be served upon garnishee. 20 ALR5th 229.

Determination of paternity of child as within scope of proceeding under uniform reciprocal enforcement of support act. 81 ALR3d 1175.

Employee retirement pension benefits as exempt from garnishment, attachment, levy, execution, or similar proceedings. 93 ALR3d 711.

Propriety of decree in proceeding between divorced parents to determine mother's duty to pay support for children in custody of father. 98 ALR3d 1146.

INTERPRETIVE NOTES AND DECISIONS

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II. SUBJECT OF GARNISHMENT

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I. IN GENERAL

1. Generally

42 USCS @ 659 insulates United States from suit to recover sums garnished by person whose wages have been garnished under such section. *Jizmerjian v Department of Air Force* (1978, DC SC) 457 F Supp 820, affd without op (CA4 SC) 607 F2d 1001, cert den 444 US 1082, 62 L Ed 2d 766, 100 S Ct 1036, later proceeding 4 Cl Ct 355, affd without op (CA FC) 746 F2d 1489.

Under 42 USCS @ 659, United States is not liable for sums withheld from pay of Air Force Colonel whose salary was garnished to satisfy child support and alimony obligations. *United States v Morton* (1984) 81 L Ed 2d 680, 104 S Ct 2769.

42 USCS @ 659 applies so as to allow garnishment to enforce judgment for support arrearages based on judgment entered before enactment of such section. *Pellerin v Pellerin* (1976) 259 Ark 546, 534 SW2d 767.

Legislative history does not support contention that Congress intended 42 @ USCS @ 659 to prohibit evidence of receipt of Social Security disability payments from being introduced in setting alimony or contempt proceedings for enforcement of alimony; statute is intended merely to deal with particular situation where federal employees refuse to make their alimony or support payments and then hide behind cloak of sovereign immunity. *Meadows v Meadows* (1980, Okla) 619 P2d 598.

When legal process is served on government agency in accordance with 42 USCS @ 659 and its implementing regulations, agency must garnish wages of obligor. *Captain Ernest T. Foster, USAF (Retired)--Claim for Refund of Amounts Withheld from Retired Pay as Child Support* (6/14/94) Comp. Gen. Dec. No. B-257000.

2. Federal jurisdiction

42 USCS @ 659 does not confer federal courts with jurisdiction, especially in light of @ 660, which is part of same statutory scheme specifically providing for federal jurisdiction in other circumstances. *Stephens v United States Dept. of Navy* (1979, CA4) 589 F2d 783.

42 USCS @ 659 does not confer any further jurisdiction upon federal courts. *Morrison v Morrison* (1976, ND Tex) 408 F Supp 315; *Cunningham v Department of Navy* (1978, DC Conn) 455 F Supp 1370.

Since 42 USCS @ 659 merely eliminates federal government's immunity from garnishment proceedings authorized under state law, rather than creating statutory right to relief by way of garnishment, section does not provide independent jurisdictional base upon which garnishment action may be maintained in Federal district court. *Morrison v Morrison* (1976, ND Tex) 408 F Supp 315.

Statute which merely waives government's immunity from garnishment proceedings for enforcement of child support and alimony obligations of its employees does not provide basis for federal jurisdiction. *Golightly v Golightly* (1976, DC Neb) 410 F Supp 861.

42 USCS @ 659 does not confer jurisdiction on federal court to litigate claim by retired army officer who is deficient in support and alimony payments that

42 USCS @ 659 (1997)

garnishment by state court of 100 per cent of his Army retirement benefits is improper since he is not within state court's jurisdiction; such argument should be made to state court and is not properly within federal court's jurisdiction. *Popple v United States* (1976, WD NY) 416 F Supp 1227.

42 USCS @ 659 is very limited waiver of sovereign immunity since it extends only to actions brought to enforce writs of garnishment; it does not vest subject matter jurisdiction in federal courts to hear actions seeking to enjoin enforcement of such writs. *Sarfaty v Sarfaty* (1982, ED Pa) 534 F Supp 701.

3. -Under 28 USCS @ 1346

42 USCS @ 659, whether standing alone or read in conjunction with 28 USCS @ 1346(a)(2), does not confer original subject matter jurisdiction in federal court to determine garnishment actions brought to enforce state court decrees. *Wilhelm v United States Dept. of Air Force, Accounting & Finance Center* (1976, SD Tex) 418 F Supp 162.

Language of 42 USCS @@ 659, 660, leaves little room for doubt that proper determination of jurisdiction in child support and alimony garnishment cases limits access to federal courts to those instances where Secretary of HEW (now HHD) first certifies necessity pursuant to @ 652(a)(8) and in action founded on state court judgment and not on @ 659; 28 USCS @ 1346 does not vest district court with jurisdiction to hear garnishment actions. *Bolling v Howland* (1975, MD Tenn) 398 F Supp 1313.

4. -Removal under 28 USCS @@ 1441, 1442

28 USCS @ 1442(a)(1) authorizes removal of action under 42 USCS @ 659(a) where state court judgment is entered against government in amount which exceeds that which government is required by its own statute to collect on behalf of creditor of federal employee, since effect of judgment is to change status of United States from stakeholder in garnishment action to debtor. *Loftin v Rush* (1985, CA11 Ga) 767 F2d 800.

Removal of state court garnishment action to federal court is improper where action does not purport to subject any federal officer to personal liability or penalty and where failure to comply with technicalities of local law result in finding that no claim against United States exists at time of removal. *West v West* (1975, ND Ga) 402 F Supp 1189.

Removal statute set forth at 28 USCS @ 1441(a)(1) cannot be construed to permit removal of actions permitted in state court under 42 USCS @ 659 since Congress had no intention of broadening federal jurisdiction in such matters. *Wilhelm v United States Dept. of Air Force, Accounting & Finance Center* (1976, SD Tex) 418 F Supp 162.

Suit against federal garnishee under 42 USCS @ 659 may be removed under 28 USCS @ 1442(a)(1); thus, action brought in state court by former wife of Coast Guard employee seeking judgment based on Coast Guard's failure to honor garnishment of her husband's wages issued because of his failure to make court-ordered child support payments may be removed to and entertained by federal court. *Young v Young* (1980, WD Tenn) 547 F Supp 1.

5. Right to action

Under 42 USCS @ 659, Congress did not consent to its fiscal officer being sued for any purpose other than enforcement of legal obligation to provide child support or alimony payments; @ 659 was never intended as peg on which to hang by bootstrap entirety of domestic relations dispute involving federal employees. *Overman v United States* (1977, CA8 Mo) 563 F2d 1287, 44 ALR Fed 485.

Purpose and effect of 42 USCS @ 659 is to waive sovereign immunity of United States for garnishment in limited class of state court actions involving

support obligations of government employees; new federal cause of action was not created nor was any further jurisdiction conferred upon federal courts by @ 659. *Diaz v Diaz* (1977, CA4 W Va) 568 F2d 1061.

42 USCS @ 659(a) was not intended to authorize payment of default judgments entered against United States pursuant to state law; Congress did not intend Federal Government to be subject to state default judgments that would render United States liable for any amount in excess of that owed to judgment debtor/employee at time of garnishment. *Loftin v Rush* (1985, CA11 Ga) 767 F2d 800.

Suit by mothers, beneficiaries under Social Security Act of child support enforcement payments from county and state enforcement services, is foreclosed by comprehensive remedial scheme provided by Congress and where corrective action program is already underway. *Carelli v Howser* (1991, CA6 Ohio) 923 F2d 1208.

Since 42 USCS @ 659 merely eliminates federal government's immunity from garnishment proceedings authorized under state law, rather than creating statutory right to relief by way of garnishment, section does not provide independent jurisdictional base upon which garnishment action may be maintained in Federal district court. *Morrison v Morrison* (1976, ND Tex) 408 F Supp 315.

42 USCS @ 659 does not establish federal right to garnishment; garnishment proceeding thus does not arise under @ 659, which merely renounces defense to such suit. *Williams v Williams* (1976, DC Md) 427 F Supp 557.

Plaintiff cannot enjoin federal officer from withholding from plaintiff's pay amounts representing child support and alimony obligations on grounds that underlying divorce decree and order for child support was issued by state court which had no personal jurisdiction over plaintiff. *Lowell v McDavid* (1980, ED Va) 532 F Supp 172.

6. Relation to other statutes

Argument that 42 USCS @ 659 is unconstitutional to persons subject to multistate garnishments as failing to address choice-of-law problems affords basis for 28 USCS @ 1331(a) jurisdiction as claim arising under Constitution. *Garrett v Hoffman* (1977, ED Pa) 441 F Supp 1151.

7. -Title 15 (Consumer Credit Protection)

Community property is not within definition of alimony for which Federal Government has waived its immunity to state garnishment proceedings pursuant to 42 USCS @ 659; amount of military member's or federal employee's pay or salary subject to garnishment for child support or alimony pursuant to @ 659 is limited by 15 USCS @ 1673(b). 57 Op Comp Gen 420.

8. -Title 42 (Public Welfare)

42 USCS @ 662 defines "child support" and "alimony" in manner that makes clear that @ 659 authorizes garnishment of wages payable by United States to enforce judgment for attorneys' fees awarded in connection with award of alimony and child support. *Murray v Murray* (1977, CA8 Mo) 558 F2d 1340.

In light of definition contained in 42 USCS @ 662, @ 659 does not apply to alimony in gross as defined by courts of state; intent of @ 659 is to assist collection of periodic alimony and is not vehicle to be used in enforcement of alimony in gross. *Crawley v Crawley* (1978, Ala App) 358 So 2d 456, cert den (Ala) 358 So 2d 458.

9. Relation to state laws and proceedings

State statute authorizing award of child support benefits from veteran's disability benefits is not pre-empted by provisions of Child Support

Enforcement Act, 42 USCS @ 659, which allows garnishment of certain federal funds for child support but excludes veterans' disability benefits, as provision was designed to avoid sovereign immunity problems and not to preclude contempt order against individual where individual's income happens to be comprised of veterans' disability benefits. *Rose v Rose* (1987, US) 95 L Ed 2d 599, 107 S Ct 2029.

Mere fact that under 42 USCS @ 659 United States waives immunity for enforcement of alimony obligations does not confer right to alimony on party precluded by state law from receiving it; thus, such statute does not serve as basis for contention that certain Army retirement benefits awarded as community property in divorce decree should be treated as alimony payments within meaning of @ 659. *Marin v Hatfield* (1977, CA5 Tex) 546 F2d 1230.

State court had jurisdiction, in action to garnish retirement funds of serviceman who had molested minor, to determine whether payments related to welfare and medical needs of minor were within statutory definition of "child support," where by providing that definition of child support would track state law, Congress clearly left to state courts precise determination of what constitutes child support, and where payments arguably fit within general definition of "child support," in that paying off judgment in periodic payments would generate funds that would actually be used for support and maintenance of minor. *Salazar v United States Air Force* (1988, CA5 Tex) 849 F2d 1542.

Phrase "regular on its face" in 42 USCS @ 659(f) means legal process which, facially judged, appears to evidence legitimate exercise of jurisdiction on part of issuing authority, not whether there were infirmities underlying garnishment order. *Millard v United States* (1989) 16 Cl Ct 485.

42 USCS @ 659 does not confer jurisdiction on federal court to litigate claim by retired army officer who is deficient in support and alimony payments that garnishment by state court of 100 per cent of his Army retirement benefits is improper since he is not within state court's jurisdiction; such argument should be made to state court and is not properly within federal court's jurisdiction. *Poppo v United States* (1976, WD NY) 416 F Supp 1227.

Federal employee's action against government, arising out of garnishment of portion of employee's civil service annuity to satisfy alimony payments due under divorce decree issued by state court, is dismissed, where court had jurisdiction to order employee to pay alimony to former wife and where order was not improper or irregular, because under 42 USCS @ 659(f), government is immune from suit when acting in accordance with what appears to be valid order. *Hutcheson v United States* (1995, ED Tex) 900 F Supp 49.

42 USCS @ 659 does not empower Georgia trial court to garnish wages of person who was employed by U.S. Army in civilian capacity in Mississippi. *Nelson v Nelson* (1985) 173 Ga App 546, 327 SE2d 529.

Liquidated arrearages due ex-spouse may be considered alimony for purposes of 43 USCS @ 659 notwithstanding that alimony may be offensive to state policy. *Williams v Williams* (1976, Fla App D1) 338 So 2d 869.

Congress has waived sovereign immunity of United States to permit garnishment of Armed Forces pay to enforce legal obligations of child support or alimony but 42 USCS @ 659 does not create statutory right to relief by way of garnishment, but, rather, leaves implementation of its provisions to state courts; person seeking garnishment must establish that nonresident person against whom garnishment is sought has property interest within state to create proper jurisdiction. *Williamson v Williamson* (1981) 247 Ga 260, 275 SE2d 42, cert den 454 US 1097, 70 L Ed 2d 638, 102 S Ct 669.

10. What constitutes alimony and child support

42 USCS @ 662, defines "child support" and "alimony" in manner that makes

clear that @ 659 authorizes garnishment of wages payable by United States to enforce judgment for attorneys' fees awarded in connection with award of alimony and child support. *Murray v Murray* (1977, CA8 Mo) 558 F2d 1340.

Right to collect child support payments that have been assigned to state agency continues to be "child support" under federal law in order that such right may be enforced against federal disability benefits. *Knickerbocker v Norman* (1991, CA8 Iowa) 938 F2d 891, CCH Unemployment Ins Rep para. 16150A.

In light of definition contained in 42 USCS @ 662, @ 659 does not apply to alimony in gross as defined by courts of state; intent of @ 659 is to assist collection of periodic alimony and is not vehicle to be used in enforcement of alimony in gross. *Crawley v Crawley* (1978, Ala App) 358 So 2d 456, cert den (Ala) 358 So 2d 458.

Liquidated arrearages due ex-spouse may be considered alimony for purposes of 43 USCS @ 659 notwithstanding that alimony may be offensive to state policy. *Williams v Williams* (1976, Fla App D1) 338 So 2d 869.

Property settlement agreement does not give rise to alimony obligation to husband, therefore wife suing for arrearages pursuant to such agreement could not reach husband's Marine Corps retirement benefits pursuant to 42 USCS @ 659. *Butler v Butler* (1978) 219 Va 164, 247 SE2d 353.

Community property is not within definition of alimony for which Federal Government has waived its immunity to state garnishment proceedings pursuant to 42 USCS @ 659; amount of military member's or federal employee's pay or salary subject to garnishment for child support or alimony pursuant to @ 659 is limited by 15 USCS @ 1673(b). 57 Op Comp Gen 420.

11. Sovereign immunity

42 USCS @ 659 abrogates sovereign immunity to extent of lawful garnishments, whether or not government complies with its obligation to withhold, and thus government is liable for any funds it fails to withhold, plus interest. *Young v Young* (1980, WD Tenn) 547 F Supp 1.

12. -Limited waiver

United States has made itself subject to garnishment proceedings for enforcement of legal obligations to provide child support or to make alimony payments, but only when money due is for remuneration of employment; mere fact that sovereign immunity has been removed in this one limited area does not reflect broader intent to remove sovereign immunity in areas not specifically provided for. *Brockelman v Brockelman* (1979, DC Kan) 478 F Supp 141, 79-2 USTC para.594.

42 USCS @ 659 waives sovereign immunity only for "legal processes," defined by 42 USCS @ 662(e) to mean any writ, order, summons, or other similar process in nature of garnishment brought for enforcement against individual of his legal obligation to provide child support or make alimony payments; action cannot be brought to enforce legal obligation until after obligation is established by judgment, order or decree of court; thus, action to adjudicate interest of party in retirement fund brought on basis that retirement benefit may eventually be used to satisfy child support or alimony obligation is premature and barred by doctrine of sovereign immunity. *Lamerand v Lamerand* (1980, CD Cal) 499 F Supp 1109.

Limited waiver of immunity of government entities from garnishment proceedings is granted by 42 USCS @ 659(a) for purposes of enforcement against individual of legal obligation to make alimony payments. *Veterans Admin. v Kee* (1986, Tex) 706 SW2d 101.

13. -Postal Service

United States Postal Services is not immune from state garnishment process under 42 USCS @ 659. *Standard Oil Div., American Oil Co. v Starks* (1975, CA7 Ill) 528 F2d 201, 38 ALR Fed 540; *Goodman's Furniture Co. v United States Postal Service* (1977, CA3 NJ) 561 F2d 462; *General Electric Credit Corp. v Smith* (1977, CA4 Va) 565 F2d 291; *May Dept. Stores Co. v Williamson* (1977, CA8 Mo) 549 F2d 1147; *Beneficial Finance Co. v Dallas* (1978, CA2 NY) 571 F2d 125.

United States Postal Service is not provided with immunity by 42 USCS @ 659 from properly instituted state law garnishment proceedings to collect upon court judgment stemming from commercial obligation. *Iowa-Des Moines Nat. Bank v United States* (1976, SD Iowa) 414 F Supp 1393.

Wages of Postal Service employees are subject to garnishment and sovereign immunity does not bar such proceedings. *United Virginia Bank/National v Eaves* (1976, SD Va) 416 F Supp 518.

Contention that 42 USCS @ 659 impliedly removes garnishment procedures from Postal Service's "sue and be sued" authorization in 39 USCS @ 401(1) is inconsistent with Congressional intent to launch service into commercial world; therefore federal postal service is not immune from garnishment procedures against one of its employees to affect state judgment. *Bank of Virginia v Tompkins* (1977, ED Va) 434 F Supp 787.

14. -Other government bodies

Under 42 USCS @ 659 government is exempt from liability for wrongful garnishment if, under state law, private employer would be held liable to plaintiff if it had acted as government acted in same circumstances; thus, government is not liable if it falls within express exemption or if it would not be liable under state law. *Millard v United States* (1990, CA FC) 916 F2d 1, reh den, en banc (CA FC) 1990 US App LEXIS 20606.

HUD is subject to garnishment proceedings since there is no evidence to show that Congress intended 42 USCS @ 659 to limit rights of judgment creditors; rather, intent is to make certain that at least in area of child support and alimony such rights are to be extended; there is no merit to government's argument that it is protected from garnishment proceedings by sovereign immunity since acceptance of such argument would lend credence to idea that HUD employees constitute separate class of individuals who are shielded from payment of adjudicated debts while others are not and that creditors must deal with them at their peril without satisfactory recourse to state laws. *Denver v Romstrom* (1980, DC Colo) 496 F Supp 242.

Judgment against Environmental Protection Agency for negligently failing to withhold amounts from employee's salary pursuant to writ of garnishment is proper where state law permits such judgment against employer-garnishee under those circumstances; 42 USCS @ 659 mandates that United States and its agencies be treated as if they were private persons with regard to garnishment for child support and alimony and employing agency may be found liable where, under same circumstances, private employer would be liable. 56 Op Comp Gen 592.

Congress has waived sovereign immunity to permit garnishment of Armed Forces pay to enforce legal obligations of child support or alimony. *Williamson v Williamson* (1981) 247 Ga 260, 275 SE2d 42, cert den 454 US 1097, 70 L Ed 2d 638, 102 S Ct 669.

15. Miscellaneous

Ex-wife seeking back child support is awarded judgment for \$ 8,596 against garnishee Social Security Administration, where state court that ordered child support entered order of garnishment against Administration, order was properly served and apparently sent to proper office--although government claims it was never received there--and order was never responded to as past due disability

benefits were paid to deadbeat father, because government is liable for funds that should have been garnished under 42 USCS @ 659(a) and state law. DeTienne v DeTienne (1993, DC Kan) 815 F Supp 394, 40 Soc Sec Rep Serv 428, motion den (DC Kan) 1993 US Dist LEXIS 4520.

Service of United States Attorney for district in which garnishment proceeding was commenced is sufficient to confer jurisdiction over person and res of garnishee where member of military service was object of garnishment. Cloyd v Cloyd (1978, Mo App) 564 SW2d 337.

Allotment agreement providing garnishment for child support would be dropped is not proper basis for ordering garnishment for child support from funds designated in 42 USCS @ 659. United States v Wakefield (1978, Tex Civ App Fort Worth) 572 SW2d 569, writ disp.

If notice to employer appears regular on its face, employing agency is required to begin withholding money from obligor's pay in accordance with such notice. Captain Ernest T. Foster, USAF (Retired)--Claim for Refund of Amounts Withheld from Retired Pay as Child Support (6/14/94) Comp. Gen. Dec. No. B-257000.

II. SUBJECT OF GARNISHMENT

16. Disability benefits

State statute authorizing award of child support benefits from veteran's disability benefits is not pre-empted by provisions of Child Support Enforcement Act, 42 USCS @ 659, which allows garnishment of certain federal funds for child support but excludes veterans' disability benefits, as provision was designed to avoid sovereign immunity problems and not to preclude contempt order against individual where individual's income happens to be comprised of veterans' disability benefits. Rose v Rose (1987, US) 95 L Ed 2d 599, 107 S Ct 2029.

42 USCS @ 659(a) does not authorize garnishment of Veterans Administration disability benefits being paid to veteran who waived all right to military retirement pay. Sanchez Dieppa v Rodriguez Pereira (1984, DC Puerto Rico) 580 F Supp 735.

Social security disability benefits received by former husband are available for payment of past-due child support payments. Re Marriage of Schonts (1983, Iowa App) 345 NW2d 145.

Court order to make maintenance payments is not unenforceable because income of party ordered to pay is derived totally from federal disability benefits. Barbour v Barbour (1982, Ky App) 642 SW2d 904.

Former serviceman's accrued interest in retirement allowance acquired during marriage is assignable under 42 USCS @ 659 when listing property subject to equitable distribution pursuant to divorce decree notwithstanding that until payments are actually made they are not assignable and exempt from attachment, levy or seizure (38 USCS @ 3101) since property interest exists in payments before distribution; since no proof was provided that work ability of pensioner was reduced to extent of dollar amount of military disability benefit, claim that disability benefits offsets current wages lost because of diminished earning capacity was not shown, and these benefits should be treated as assignable pursuant to @ 659 when listing property subject to equitable distribution pursuant to divorce. Kruger v Kruger (1977) 73 NJ 464, 375 A2d 659.

Payments retired officer receives from United States on account of disability are not subject to state garnishment proceedings under 42 USCS @ 659, whereas retirement pay received by retired regular officer of military services can be subject to garnishment; anticipated retirement pay for future period of regular officer retired from military service is not subject to garnishment, but

42 USCS @ 659 (1997)

accumulated, unpaid retirement pay for past periods of service is subject to garnishment. *Elmwood v Elmwood* (1978) 295 NC 168, 244 SE2d 668.

17. Retirement benefits

Under 42 USCS @@ 659(a), federal military retirement pay is subject to execution for child support and alimony. *Ziegler v Ziegler* (1985, App) 107 Idaho 527, 691 P2d 773.

42 USCS @ 659 does not render military retirement pay property subject to division in proceedings for dissolution of marriage. *Ellis v Ellis* (1976) 191 Colo 317, 552 P2d 506.

Former serviceman's accrued interest in retirement allowance acquired during marriage is assignable under 42 USCS @ 659 when listing property subject to equitable distribution pursuant to divorce decree notwithstanding that until payments are actually made they are not assignable and exempt from attachment, levy or seizure (38 USCS @ 3101) since property interest exists in payments before distribution; since no proof was provided that work ability of pensioner was reduced to extent of dollar amount of military disability benefit, claim that disability benefits offsets current wages lost because of diminished earning capacity was not shown, and these benefits should be treated as assignable pursuant to @ 659 when listing property subject to equitable distribution pursuant to divorce. *Kruger v Kruger* (1977) 73 NJ 464, 375 A2d 659.

Employees or members of armed forces are not immune from support or alimony as provided in 42 USCS @ 659, and federal and military pensions are included as such payments subject to child support and alimony. *Wanamaker v Wanamaker* (1978) 93 Misc 2d 784, 401 NYS2d 702, 1 EBC 1367.

Payments retired officer received from United States on account of disability are not subject to state garnishment proceedings under 42 USCS @ 659, whereas retirement pay received by retired regular officer of military services can be subject to garnishment; anticipated retirement pay for future period of regular officer retired from military service is not subject to garnishment, but accumulated, unpaid retirement pay for past periods of service is subject to garnishment. *Elmwood v Elmwood* (1978) 295 NC 168, 244 SE2d 668.

Retirement pay is subject to garnishment to enforce collection of judgment arising from legal obligation to pay support money to ex-spouse pursuant to contract; Congressional intent was to make federal income subject to garnishment for delinquent spousal support payments, whether payments were court ordered or required only by private agreement. *Butler v Butler* (1981, Va) 277 SE2d 180.

18. -As wage

Retirement pay due former member of military forces is remuneration for employment and is subject to garnishment in same manner and under same laws as would be active duty pay. *Watson v Watson* (1976, ED NC) 424 F Supp 866.

Since retirement pay is not debt due by government, it constitutes wages for purposes of garnishment. *Elmwood v Elmwood* (1977) 34 NC App 652, 241 SE2d 693, remanded 295 NC 168, 244 SE2d 668.

19. Other subjects of garnishment

Support obligations of father, upon whose account children's disability benefits derive, cannot be satisfied pursuant to 42 USCS @ 659(a) by reaching children's benefits; to require that children's disability benefits be credited towards their father's child support arrearages would be, in effect, ordering children to pay accrued arrearages for their own support. *Hennagin v County of Yolo* (1979, ED Cal) 481 F Supp 923.,.

Since even where all income is derived from wages, taxes withheld on those

FAX

SEPTEMBER 8, 1998

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FROM: KAYE BOESEL *KB*

SUBJECT: DRAFT DISCUSSION PAPER FOR MEETING SEPTEMBER 9

The attached draft Discussion Paper is being faxed to you for your perusal prior to the meeting at the NSC on Wednesday, September 9. The paper is written to help facilitate our discussion and is not intended to be definitive in any way.

What will Congress do?

What would we want them to do?

What has to be in a written policy so it will meet our request?

Do we have a standard they could adopt?

*particularly re:
UN, World Bank
IMF, IABD*

DRAFT

SENSITIVE BUT UNCLASSIFIED

DISCUSSION PAPER

SUBJECT: Court-ordered Child and Spouse Support/
Immunity of International Organizations

ISSUE: Whether to issue an Executive Order pursuant to the International Organizations Immunities Act (IOIA) to limit the immunities of international organizations with respect to family law issues.

BACKGROUND:

Divorced spouses of some international organization employees have reported extreme difficulty in obtaining court-ordered compensation/wage information and payments for child and spouse support because the organizations have asserted their immunity from the jurisdiction of the courts and have not independently taken adequate steps to ensure that the information is provided and the payments are made.

Informal groups of advocates -- former spouses, family law experts, employee association representatives -- in Washington and New York have communicated their desire to have an Executive Order issued by the President pursuant to the IOIA to remedy the situation. Representations have been made by the advocates to members of the Congress, the White House, the Department of State and, to a limited degree, to the press.

Data on the number of affected individuals are incomplete, and it is difficult to accurately define the scope of this problem. In response to queries on the number of cases, international organizations indicated that relatively few, if any, cases were drawn to their attention and that most of those drawn to their attention were ultimately resolved, albeit sometimes not as quickly as desired. For example, the World Bank reported that its Office of Professional Ethics, the office that deals with employees who are not abiding by final court orders for spouse or child support, received an average of four cases a year over the period 1993 to 1997, and that all but one case was resolved after consultations with the staff member. The final case required the intervention of the employee's manager to bring it to conclusion. The World Bank Voluntary Service Family Consultation Service reports that over the same five-year period, they received an average of 46 marital cases a year and an average of 17 calls per year involving divorce and separation with concerns about the financial and legal status of the spouse. The World Bank has 6,000 some employees.

The advocates contend that the problem is much larger than the international organizations are willing to acknowledge. They note that for a variety of reasons, many spouses are reluctant to come forward. Some may fear losing benefits or other forms of support they now have, such as health insurance; others are afraid they may be required to

DRAFT

SENSITIVE BUT UNCLASSIFIED

-2-

leave the U.S. Non-U.S. citizen spouses are particularly vulnerable because they are generally without a family support system and are often totally dependent upon the spouse for income, benefits, pensions, and the right to remain in the United States, where they may have lived for the previous 15 or 20 years. Moreover, the non-citizen spouse is less likely to know how to access sources of assistance, e.g., affordable legal representation.

Although the size and scope of the problem may be debatable, there is sufficient evidence to suggest that the very real crisis of some spouses (and their children) who are separated or divorced from international organization employees will continue to occur absent some changes in the policies and procedures of some of the international organizations. The question is whether the aggrieved spouses and children will be better served by international organizations that voluntarily make the necessary changes or by an Executive Order that will limit the immunities of certain of the international organizations. The Administration believes a solution must be found.

The Case for an Executive Order

PROS:

--The President has the authority pursuant to the International Organizations Immunities Act (IOIA) to issue an Executive Order without delay.

--An Executive Order guarantees a change in procedure in those organizations that do not have independent immunity from judicial process rather than leaving it to the discretion and/or good will of the international organizations.

CONS:

-- The four organizations about which there have been complaints (UN, World Bank, IMF and IADB) enjoy privileges and immunities independent of the IOIA under separate international agreement and the Executive Order would not provide the desired benefit to the aggrieved spouses and children of employees of those organizations.

--The Administration has foreign policy interests to pursue in the World Bank, IMF, IADB and UN, and a confrontational approach, i.e., imposing an Executive Order that will have symbolic, but not legal effect, could be counter-productive in respect to other goals. Moreover, there is little reason to believe the confrontational approach would be any more successful in bringing about the needed changes than a more cooperative approach.

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SENSITIVE BUT UNCLASSIFIED

-3-

-- An Executive Order under the IOIA cannot affirmatively subject an organization to jurisdiction, it can only withdraw jurisdictional immunities that exist by virtue of the IOIA.

The Case for Voluntary Action

PROS:

--Voluntary action can have an effect in cases where an EO would not. Significant and substantial improvement in the policies and procedures of the UN, World Bank, IMF and IADB would have real impact on the spouses and children who heretofore have experienced severe difficulties.

--It is doable. International organizations such as the Organization of American States have developed practices and procedures that provide court-ordered information on the wages/benefits of employees involved in divorce proceedings and in garnishing wages to enforce court orders where needed.

--Voluntary action permits each international organization to tailor its program to fit its organizational culture as long as the end result ensures that aggrieved spouses and children receive the information required and court-ordered payments.

--Voluntary action taken by international organizations with overseas locations, e.g., the UN Office in Vienna, will affect American citizen employees and their spouses in those locations.

CONS:

--Difficulty of convincing the limited number of international organizations which have so far been unresponsive to our recommendations to update their policies and procedures.

--Difficulty of imposing U.S. views on international organizations with representatives from many other cultures who may not necessarily see the issue in the same way.

--Difficulty in moving quickly on some changes, e.g., changes in pension plans cannot be made unilaterally.

RECOMMENDATION:

Do not issue an Executive Order at this time because it will not correct the problem for the greatest number of potential aggrieved spouses and children. Give the voluntary action proposal a chance to succeed.

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SENSITIVE BUT UNCLASSIFIED

-4-

Most international organizations have been taking steps to improve their policies and procedures in this regard. In July, the Secretary of State sent a diplomatic note to some thirty international organizations asking them to take steps to voluntarily provide court-ordered or subpoenaed information required to determine the salary and benefits of an employee involved in divorce and family law proceedings; to take steps to enforce court-ordered payments to divorced spouses and dependent children; and to ensure that their policies and practices are transparent and readily available to employees and spouses who may be engaged in family separation and divorce proceedings.

Twenty two international organizations replied to the diplomatic note, including all major organizations. Most of the responses were positive and several organizations indicated that it was already their policy to provide court-ordered information (UN, OAS) or to ensure payment of support orders. A number of others indicated that such would be their policy in the future. Five organizations responded that they shared our concern and as a result of the note had begun studying options for policy changes to address the issue. Only two organizations indicated that their policy was to assist in these cases by applying pressure on the employees without resort to providing information or to garnishment if the employee refused to comply with court orders. (See annex.)

PROPOSED ACTION STEPS:

--Send follow-up diplomatic note to international organizations noting best practices of the organizations that responded. (State) send model ask for contact

--Follow-up with the World Bank, IMF, IADB and the UN. Set target ^{Jan 1} date for publication of the organization's policies and procedures and point of contact. (Treasury for the IFIs and State for the UN.) model for other smaller orgs

--Invite "points of contact" identified in response to diplomatic note to a meeting to exchange ideas. (NSC? State?) HHS

--Outreach to State/Family Law network. (HHS) chp on HHS web site
→ contact name
→ policies

--Establish contact point for callers who are unable to obtain information/cooperation from the international organization. (NSC? State? HHS?) Treasury?

NSC to
fall to
T/rep
higher
up

court orders only a subset of relevant actions
State = talking pts for Hill mtg

Lazio, Morella, Mikulski

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<u>Name of Organization</u>	<u>Response Received</u>	<u>Voluntary Information Disclosure</u>	<u>Voluntary Judgment Enforcement</u>
Asian Development Bank	<u>No</u>		
Commission for Labor Cooperation	<u>Yes</u>	<u>U+</u>	<u>U+</u>
Eastern Caribbean Investment Promotion Service	<u>Yes</u>	<u>U</u>	<u>U</u>
European Space Agency	<u>Yes</u>	<u>U</u>	<u>WP</u>
Food & Agriculture Organization	<u>Yes</u>	<u>WP-</u>	<u>WP-</u>
Great Lakes Fishery Commission	<u>No</u>		
Hong Kong Economic and Trade Office	<u>Yes</u>	<u>IP+</u>	<u>IP+</u>
INMARSAT	<u>YES*</u>	<u>IP</u>	<u>IP</u>
Inter-American Development Bank	<u>Yes</u>	<u>X</u>	<u>X</u>
Inter-American Institute for Cooperation on Agriculture	<u>Yes</u>	<u>WP</u>	<u>WP</u>
Inter-American Tropical Tuna Commission Scripps Institute of Oceanography	<u>Yes</u>	<u>WP</u>	<u>WP</u>
International Center for Settlement of Investment Disputes	<u>No</u>		
International Committee of the Red Cross	<u>No</u>		
International Cotton Advisory Committee	<u>Yes</u>	<u>U</u>	<u>U</u>
International Fertilizer Development Center	<u>Yes</u>	<u>WP</u>	<u>U</u>
International Food Policy Research Institute	<u>No</u>		
International Joint Commission The United States and Canada	<u>No</u>		
International Labor Office	<u>No</u>		
International Monetary Fund	<u>Yes</u>	<u>WP-</u>	<u>WP-</u>
International Organization for Migration	<u>No</u>		
International Pacific	<u>Yes</u>	<u>IP</u>	<u>IP</u>

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Halibut Commission			
International Telecommunications Satellite Organization	<u>YES</u>	<u>X</u>	<u>X</u>
International Union for Conservation of Nature and Natural Resources	<u>No</u>		
Israeli-U.S. Binational Industrial Research and Development	<u>Yes</u>	<u>IP</u>	<u>U</u>
Korean Peninsula Energy Development Organization	<u>Yes</u>	<u>IP+</u>	<u>IP+</u>
North American Development Bank	<u>Yes</u>	<u>IP+</u>	<u>IP+</u>
Organization for Economic Cooperation and Development	<u>No</u>		
Organization of American State (SECRETARIAT)	<u>Yes</u>	<u>WP</u>	<u>WP</u>
Pan American Health Organization (World Health Organization)	<u>Yes</u>	<u>WP-</u>	<u>WP-</u>
United Nations	<u>Yes</u>	<u>WP-</u>	<u>WP-</u>
The World Bank	<u>Yes</u>	<u>WP</u>	<u>WP-</u>

Symbols: U = unresponsive, U+ = unresponsive but response promised, IP = informal policy of cooperation, IP+ = informal policy of cooperation, in the process of being formalized, WP = written policy of cooperation that fully meets our request. WP- = satisfactory written policy, but does not fully meet our request X = indicates a policy that needs attention.

* INMARSAT will be privatized in 1999. INTELSAT currently projects that it will be privatized in 2002.

JANET E. ATKINSON

May 4, 1998

Mr. Scott Busby
National Security Council
Office of Democracy and Human Rights
White House
Washington, D.C. 20504

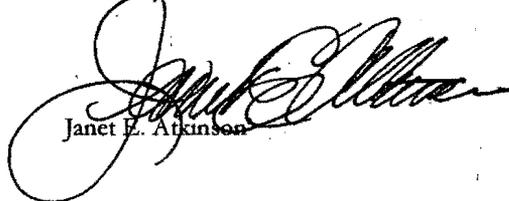
Re: International Organizations Immunity -- Family Support

Dear Mr. Busby

It was indeed a pleasure to meet you. The March 25th meeting, which you conducted, was extremely helpful. International organization spouses and attorneys, with whom I am in contact, deeply appreciate the interest President Clinton and the First Lady have shown for the tragic financial and emotional consequences, suffered by many current or former spouses of staff members of international organizations headquartered in the United States.

I look forward to meeting with you again on May 13, and to working with you to end the abuse of international organizations' immunity in family support cases.

Sincerely,



Janet E. Atkinson

Cc: Hillary Rodham Clinton
The President
Senator Barbara Mikulski
Senator Connie Morella

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. report	Summary of Policies of International Organizations (partial) (2 pages)	ca. April, 1998	P1/b(1)

**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Cynthia Rice (Subject Files)
OA/Box Number: 15429

FOLDER TITLE:

Child Support-International Agencies [1]

rx34

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

SUMMARY OF POLICIES OF INTERNATIONAL ORGANIZATIONS

Requests for salary information:

UN - Normally seeks consent of staff member before releasing information of a personal nature outside the UN. In spouse/child support cases, UN "will cooperate with the appropriate authorities, when and in the manner it deems appropriate, even without the consent of the staff member, in order to facilitate the proper legal or judicial resolution of the family member's claims." UN rep. noted orally that while UN Secretariat routinely provides information salary info when requested by courts (but not in response to requests by attorneys) implementation problems exist outside New York. UN aware of the problem; working to get word out both to those who seek information and those who control it. Began releasing pension info to courts one year ago.

IADB - Does not provide info to courts; staff members have access and they can provide it to courts. Court can order them to do so.



PI/B1

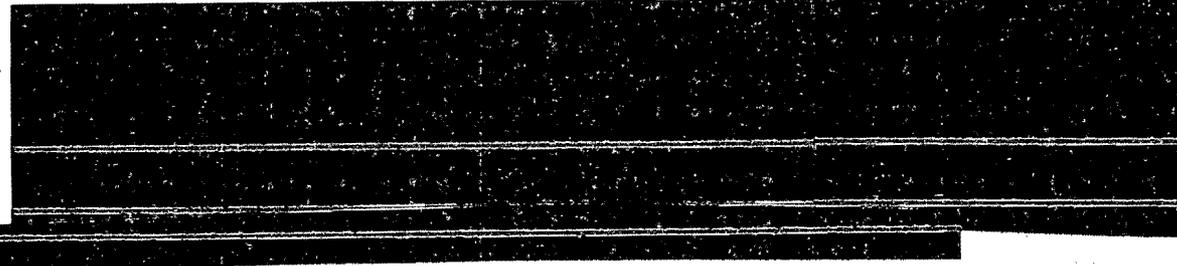
Bank - staff records including payroll info, generally not made available to persons outside Bank unless staff member authorizes disclosure of the info in writing. Bank states that two mechanisms remain available to spouses 1) make use of discovery procedures to require staff member to produce payroll information; 2) seek an order compelling the spouse to complete Bank form authorizing the spouse access to the info.

OAS - in response to subpoenas, informs court that while OAS does not submit to judicial process, will provide info on voluntary basis.

Garnishment of Wages

UN - Administrative instruction of 14 Dec. 1994 -section specifically on child and spouse support payments. States where non-support has been judicially established, and the staff member either disclaims the obligation or indicates that he/she intends to appeal the judgment, the Secretary General may decide to authorize deduction from the staff member's salary emoluments or deduction of an amount equivalent to the dependency related allowance, and direct payment of this amount to the dependent. In practice employees are first counseled and give chance to voluntarily comply. Have to provide proof that payments are being made.

IADB - Code of ethics requires that staff pay just financial obligation in proper and timely manner. There are remedial and disciplinary actions that can be taken against those who fail to comply.



P1/B1

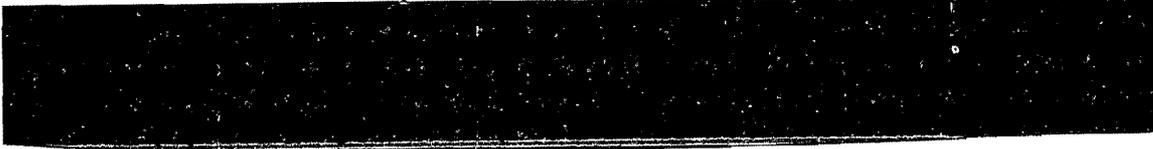
W. Bank - Principle 3 of Staff Employment - the Bank's privileges and immunities "shall not excuse staff members from the performance of their private obligations. Pursuant to Principle 3, whenever the Bank receives a final order of a court re obligation of a staff member to pay support to spouse or child, the Bank refers it to the Office of Professional Ethics after informing the court/counsel that the Banks' privileges and immunities preclude enforcement of garnishment orders. OPE calls the matter to the attention of the staff member and informs member that disciplinary action may be imposed if the legal obligation is not fulfilled. The employee is required to provide documentary evidence for three months that payments are being made.

OAS - Advises employee of obligation to comply with laws of host country including court orders. If no compliance by employee, OAS will waive immunity for limited purpose and will garnish wages.

Pension Plan

UN - Expects to adopt new pension plan similar to that of World Bank and IMF this summer.

IADB- has examined ways in which benefits under its Staff Retirement Plan can be partitioned and shared with current and former spouses. Has prepared an amendment to the Plan which would permit partitioning of benefits and expects to present this to the Bd of Executive Directors for adoption in the near future.



P1/B1

Bank - the Retirement plan was amended in 1995 to permit payments to divorced or legally separated spouses from either a commuted sum or a normal or early retirement pension payable to a retired staff member. There must be a final court order imposing an obligation of support arising out of the marital relationship for the provision to apply.

OAS - Pension plan change in 1981 to prohibit alienation of pension rights (applicable to persons who joined after 1981). As none of these persons have yet retired no issue has arisen.

General

Within past five years IADB has received no more than a half dozen formal request for personal financial information or order for the payment of alimony of child support.

The Bank reports that in the period 1993-1997, twenty-two cases involving court ordered support have come to the attention of the Office of Professional Ethics, all twenty two were successfully resolved, although the Bank reports one difficult case which took a year to resolve. Has 36 qualified domestic relations orders on file, eight are in payment and the remainder relate to persons who have not yet retired.

UN currently has four unresolved cases with Secretariat.

Upon separation of employee, UN makes deductions from final payments to pay staff member's legally established third party indebtedness; judicially established family obligations, including repatriation travel, have first priority.

INTELSAT and PAHO also attended meeting at the State Department. Both organizations reported that they had very few cases of this type and none which had been difficult to resolve.

Attachments: Tab 1 - UN Administrative Instruction, Dec. 14, 1994
Tab 2 - IADB letter of April 22, 1998 to Kaye Boesel
Tab 3 - IMF letter of April 10, 1998 to Kaye Boesel
Tab 4 - World Bank letter of April 16, 1998 to Kaye Boesel
Tab 5 - OAS letter of April 9, 1998 to Kaye Boesel



Secretariat

ST/AI/399

14 December 1994

ADMINISTRATIVE INSTRUCTION

To: Members of the staff

From: The Assistant Secretary-General for Human Resources Management

Subject: FINANCIAL AND OTHER OBLIGATIONS OF STAFF MEMBERS*

1. The purpose of the present instruction is to remind staff members of their obligation under staff regulations 1.1, 1.4 and 1.8 to regulate their conduct at all times in a manner befitting their status as international civil servants, and also to set out, in broad terms, the Organization's policies for responding to cases of personal indebtedness.

2. Staff members are expected, as a matter of proper conduct, to meet their legal and financial obligations without involving the United Nations. The standards of conduct of international civil servants (COORD/CIVIL SERVICE/5) require that staff members bear in mind that their conduct, whether connected or unconnected with official duties, must be such that it will not infringe upon any demonstrable interests of the Organization, bring it or their colleagues into discredit or offend the community in which they live. The honouring of private financial obligations and compliance with national laws are among the requirements that derive from this general principle, which is explicitly stated in staff regulation 1.8.

3. Staff members who are experiencing financial difficulties should consult the Staff Counsellor or a personnel officer about possible help from the Staff Emergency Fund or its equivalent outside Headquarters.

* Personnel Manual index No. 1040.

9449986

The Organization's obligations in cases of private indebtedness

4. The privileges and immunities attached to the United Nations are granted to officials in the interests of the Organization and not for the personal benefit of the individuals themselves. As such, these privileges and immunities do not provide the staff members who enjoy them, nor the staff members who do not, with an excuse for the non-performance of their private obligations. Although in principle the United Nations does not intrude upon the private life of a staff member, when it is brought to the attention of the United Nations that a staff member has failed to satisfy his/her legal obligations and/or resolve all matters relating thereto, the Organization may, when it deems appropriate, take action against the staff member. Pursuant to section 20 of the Convention on the Privileges and Immunities of the United Nations, the Secretary-General has the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. Furthermore, pursuant to section 21 of the Convention, the United Nations has an obligation to cooperate at all times with the appropriate authorities of Member States to facilitate the proper administration of justice and to prevent the occurrence of any abuse in connection with the privileges and immunities of the Organization.

Personal debts to outside claimants

5. The United Nations, including its property and assets, is immune from legal process and from judgements of execution. United Nations salaries, therefore, are not subject to garnishment or attachment. However, staff members of the Organization have no personal immunity in respect of private acts and obligations, and the Organization's immunity is not intended to derogate from the rights of legitimate claimants. Claimants who communicate to the United Nations a legal obligation that has not been met are informed of the Organization's immunity and also of the policy of requiring staff members to meet their financial obligations. Staff members are provided with a copy of this correspondence relating to the legal obligation or judgement, together with a copy of the claim, levy or order, and are requested, in writing, to initiate steps to settle the matter promptly and to advise their personnel officer of the action that has been taken.

6. If, within three months from the date of receipt by the staff member of the personnel officer's request, the Organization is not satisfied that appropriate and effective action has been taken by the staff member, all correspondence will

be placed in the official status file and disciplinary action may be initiated in accordance with chapter 10 of the Staff Rules.

Child and spouse support payments

7. Private family matters are not in themselves the business of the Organization. However, staff members are expected, as a matter of proper conduct, to support their dependants and to comply fully with legally established maintenance obligations. Failure to honour legally binding and other family support obligations violates the standards of conduct required of international civil servants and is inconsistent with the obligation of integrity. Staff members who are in receipt of United Nations allowances and benefits intended for the support of dependants, including dependency allowance and salary at the dependency rate, education grant and insurance subsidy, may be called upon at any time to provide evidence that these sums are being used for their declared purpose. Failure to honour support obligations, while at the same time receiving allowances and benefits premised on dependency, may constitute serious misconduct.

8. In cases where non-support has been judicially established, and the staff member either disclaims the obligation or indicates that he/she intends to appeal the judgement, the Secretary-General may decide to authorize, under the terms of staff rule 103.18 (b) (iii), deduction from the staff member's emoluments of an amount equivalent to the dependency-related allowances and direct payment of this amount to the dependant. Where there is an apparent conflict between jurisdictions, the Office of Legal Affairs will advise which court order will have precedence.

9. The Organization normally seeks the consent of a staff member before releasing information of a personal nature to persons or organizations outside the United Nations. In spouse and child support cases, however, the Organization will cooperate with the appropriate authorities, when and in the manner it deems appropriate, even without the consent of the staff member, in order to facilitate the proper legal or judicial resolution of the family's claims. The staff member will be notified that the information has been provided and the nature of the information.

10. Abuse of the privileges and immunities conferred upon the United Nations in order to avoid service of process, if established, may result in disciplinary action.

Deductions from final payments

11. Although the salaries of serving staff members are not subject to attachment under the Convention on the Privileges and Immunities of the United Nations, final payments on separation are not immune. Accordingly, deductions from final entitlements may be authorized to pay the staff member's legally established third party indebtedness, including to dependent, former or estranged spouses and entitled children in regard to repatriation travel and grant payments.

12. Where deductions from terminal payments are authorized under the terms of staff rule 103.18 (b) (iii), the order of precedence for payment, after deductions for indebtedness to the United Nations and the United Nations Federal Credit Union (or similar institution at other duty stations), will be: first, unpaid judicially established family obligations, including repatriation travel and grant payments; and second, all other legally established indebtedness to third parties. In the event (a) the staff member does not consent to such payments in writing or (b) any dispute or other conflicting claims are made in connection with this provision, including, but not limited to, issues of priority, then the United Nations shall have the right, in its discretion, to withhold payments commensurate with the amount in question until such dispute or conflicting claims have been resolved by written agreement between the interested parties or the issuance of a final judgement by a court of competent jurisdiction.

Mission service

13. Staff members detailed to special missions should make suitable arrangements before departure for payment of ongoing obligations at the duty station. Absence on mission furnishes no excuse for non-payment of indebtedness. Because of the limited duration of special mission assignments and the Organization's responsibilities towards the host country, staff members are expected to settle all bills incurred at the mission area before departure. Evasion of responsibilities in this respect may result in ineligibility for future mission assignments, as well as in the application of any of the measures set out above, including those referred to in paragraph 6.



Washington, D.C. 20577

VIA MESSENGER

April 22, 1998

Ms. Kaye Boesel
Department of State
IO/UNP
Room 6334
2201 C Street, N.W.
Washington, D.C. 20520

Dear Ms. Boesel:

I would like to thank you and the State Department again for meeting with me and representatives of other international organizations on April 1. I think it was very constructive for us to be able to share views with the State Department on family issues that are important to all of us.

As I know the Department appreciates, international organizations operate under constraints that are unique to them, while attempting to be good neighbors in the countries in which they perform their missions. Sometimes they have to reach for goals by taking different routes than those that might be taken by the private sector or governmental entities.

You asked in the closing of the meeting that the organizations provide to you copies of written material that may bear upon how they deal with compliance with domestic support obligations, including requests for financial information. As I mentioned at the meeting, the Inter-American Development Bank relies principally on voluntary compliance by its staff, subject to the standards of behavior and sanctions set forth in its Code of Ethics, which has been in place since 1980.

Under the Code, staff are required to pay each just financial obligation in a proper and timely manner (Code section 3.902), and are subject to the general injunction concerning the conduct of their personal affairs in a manner which does not give even the appearance of attempting to benefit unfairly from their affiliation with the Bank (e.g. hiding behind the Bank's immunities) (Code section 3.401). Sections 5.100 and 5.200 of the Ethics Code address the remedial and disciplinary actions that can be taken against those who fail to comply with the guidelines set forth in the Code.

I attach excerpts from these sections of the Code of Ethics, as well as two complete copies of the Code for your reference.

As I mentioned at the meeting, the Bank has mechanisms available to assist staff in meeting their financial obligations through payroll deductions. These mechanisms are currently being used by staff to meet alimony, child support and other financial obligations.

Recognizing that pension rights often form one of the largest family assets, and that courts commonly consider both the right to a pension and its value in determining a division of marital property, the Bank has examined ways in which benefits under its Staff Retirement Plan can be partitioned and shared with current and former spouses. As a result, the Administration of the Bank has prepared an amendment to the Plan which would permit such partitioning, and expects to present it to the Board of Executive Directors for adoption in the very near future.

While I wish I had better statistics upon which to rely, it appears to me that within the past five years the Bank has, in connection with family support matters, received no more than a half dozen formal requests for personal financial information or orders for the payment of alimony or child support.

I hope this information is helpful to you. Naturally I will try to keep you advised of developments in these areas at the Bank in the future.

Sincerely yours,



Norman R. Williams
Attorney

Enc.

EXCERPTS FROM THE IDB CODE OF ETHICS

Concerning financial obligations:

A staff member shall pay each just financial obligation in a proper and timely manner, including, of course, any imposed by law such as taxes. For the purpose of this subsection, a "just financial obligation" means one acknowledged by the staff member or reduced to judgment by a court, and "in a proper and timely manner" means, in the event of any doubt, in a manner which the Bank determines does not, under the circumstances, reflect adversely upon the Bank as an employer. ... (Ethics Code, sec. 3.902)

Also applicable is the general injunction concerning the conduct of one's personal financial affairs:

A staff member should feel free, generally, to conduct his or her personal financial affairs as he or she sees fit. However, a staff member, or any member of a staff member's immediate family, shall conduct his or her personal financial matters in such a manner as to avoid any reasonable basis for interpreting his or her actions as attempts to benefit from his or her affiliation with the Bank ... (Ethics Code, sec. 3.401)

Remedial and disciplinary actions:

Section 5.100 of the Ethics Code provides that the President of the Bank may, after receiving the advice of the Ethics Committee, take any remedial action "which may be appropriate according to the terms of [the staff member's] contract of employment with the Bank."

Section 5.200 addresses additional, disciplinary action that may be taken:

The President may, in addition to or in conjunction with the remedial action available pursuant to Section 5.100, take disciplinary action, including dismissal if appropriate, in cases involving staff members who violate the provisions of these Guidelines.

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. letter	James Jones to Kaye Boesel re: IMF and child support proceedings (5 pages)	04/10/98	P1/b(1)

**This marker identifies the original location of the withdrawn item listed above.
For a complete list of items withdrawn from this folder, see the
Withdrawal/Redaction Sheet at the front of the folder.**

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Cynthia Rice (Subject Files)
OA/Box Number: 15429

FOLDER TITLE:

Child Support-International Agencies [1]

rx34

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
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- P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

April 16, 1998

Ms. Kaye Boesel
I.O. Bureau, Room 6334
Department of State
Washington, D.C. 20520

Dear Ms. Boesel:

In follow up to the meeting on April 1, 1998, at your office attended by representatives of various international organizations, I am writing to confirm the procedures and policies followed at the World Bank in situations where the Bank receives court orders or requests for information in domestic relations matters. You identified three general areas of interest: (i) access to payroll records; (ii) court ordered support; and (iii) divorced spouse rights in respect of pensions.

Access to Payroll Information: Under the Bank's Staff Rules, staff records, including payroll information, are generally not made available to persons outside the Bank, unless the staff member authorizes disclosure of the information in writing. The Bank has prepared a form (Form 2298) that staff members may sign in order to authorize a spouse to access information contained in the staff records, including payroll information. A copy of Form 2298 is attached as Attachment 1. In situations where staff members have been unwilling to provide authorization, there are generally two mechanisms that remain available to spouses: The first is to make use of discovery procedures to require the staff member to provide the payroll information to the spouse. (Staff members have access to their own payroll information and may, upon request, obtain a written statement from the Bank confirming their earnings.) Alternatively, the spouse may seek to obtain an order compelling the staff member to complete and submit to the Bank Form 2298, in which case the information could be provided directly to the spouse by the Bank.

Situations of Court Ordered Support. Principle 3 of the Principles of Staff Employment makes it clear that the Bank's privileges and immunities "shall not excuse staff members from the performance of their private obligations or from the due observance of the law." A copy of Principle 3 is attached as Attachment 2. Staff Rule 8.01, "Disciplinary Measures" provides that "acts or omissions in conflict with the general obligations of staff members set forth in Chapter Three of the Principles of Staff Employment..." may form a basis for a finding of misconduct. A copy of the relevant provisions of Staff rule 8.01 is attached as Attachment 3. Also attached, as Attachment 4, is a copy of the Bank's Code of Professional Ethics.

Pursuant to Principle 3, whenever the Bank receives a final order of a court obligating a staff member to pay support, either to a spouse or a child, the Bank's practice

is to refer the matter to the Office of Professional Ethics ("OPE") after informing the court and counsel that the Bank's privileges and immunities preclude enforcement of garnishment orders. The OPE then calls the matter to the attention of the staff member concerned and informs him/her that the legal obligation must be fulfilled or disciplinary measures may be imposed. The staff member is required to provide OPE with documentary evidence that payments are being made for three months thereafter. Counsel for the spouse is free to contact OPE directly if, at any time, payments are not being made. According to OPE, in the period 1993-1997, twenty-two cases involving court ordered support have come to the attention of OPE. OPE advises that all twenty-two were resolved by the staff member meeting his obligations after intervention by OPE, although in one case OPE did have to work with the staff member's manager to prevail upon the staff member to fulfill his obligations.

Divorced Spouses and Pension Rights. In 1995, the Staff Retirement Plan of the Bank ("SRP") was amended to include a provision that allows the SRP to make payments to divorced or legally separated spouses from either a commuted sum or a normal or an early retirement pension payable to a retired staff member. There must be a final court order imposing an obligation of support arising out of the marital relationship for the provision to apply. The Bank requires a certified copy of a final court order in order to apply the provision of the SRP relating to divorced or legally separated spouses. Attached is a copy of a circular distributed to all staff describing the provision (Attachment 5) as well as a copy of the Plan provision itself (Attachment 6). You will note that the circular includes a memorandum intended principally for use of counsel that explains the SRP provision in greater detail. The Pension Office informs me that at present it has thirty-six court orders on file, of which eight are now in payment.

I hope you find this information and documentation helpful in understanding the seriousness with which the Bank regards these matters and the efforts the Bank makes to see to it that concerned staff do not abuse their positions as international civil servants to avoid personal legal obligations in the domestic relations area. Please do not hesitate to contact me if you require additional information.

Sincerely,



David Rivero
Chief Counsel, Administration Unit
Legal Department

Enclosures

THE WORLD BANK GROUP

AUTHORIZATION FOR SPOUSE/DOMESTIC PARTNER TO BENEFITS INFORMATION

- INSTRUCTIONS** -- Complete this form and submit it to Benefits Administration Unit, PSCBE.
-- Keep a copy for your records.
-- Inform your spouse/domestic partner accordingly OR give him/her a copy of this completed form.
-- Type or print.

Staff Member's Name (Last, First, M.I.)	Staff No.	Spouse's/Domestic Partner's Name (Last, First, M.I.)
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1. I authorize my spouse/domestic partner, whose name appears above, to have access to the following information:
- Life Insurance
 - Pension
 - Beneficiaries
 - Dependency Allowance
 - Field Assignment Benefits
 - Other Benefits (e.g. home country travel, education, financial assistance, resettlement)
 - Salary
2. I may revoke this authorization at any time by delivering written notice to my Benefits Counsellor to that effect. (I will give a copy of this revocation to my spouse/domestic partner). In the event that my spouse/domestic partner subsequently requests information s/he will be advised of the revocation. This authorization is effective as of the date receipt is acknowledged by the Benefits Administration Unit, PSCBE.

Staff Member's Signature	Date
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For Benefits Administration Unit, PSCBE, Use Only

Benefits Counsellor's Signature	Date
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GENERAL OBLIGATIONS OF STAFF MEMBERS

3.1 The sensitive and confidential nature of much of their work requires of staff a high degree of integrity and concern for the interests of the Organizations. Moreover, as employees of international organizations, staff members have a special responsibility to avoid situations and activities that might reflect adversely on the Organizations, compromise their operations, or lead to real or apparent conflicts of interest. Therefore, staff members shall:

- (a) discharge their duties solely with the interest and objectives of the Organizations in view and in so doing shall be subject to the authority of the President and responsible to him;
- (b) respect the international character of their positions and maintain their independence by not accepting any instructions relating to the performance of their duties from any governments, or other entities or persons external to the Organizations unless on secondment to them or employed by them while on leave of absence from The World Bank or the IFC. Staff members shall not accept in connection with their appointment or service with the Organizations any remuneration, nor any benefit, favor or gift of significant value from any such governments or other entities or persons, nor shall they, while in the service of The World Bank or the IFC, accept any medal, decoration or similar honor for such service. Staff members may retain reemployment rights or pension rights acquired in the service of another organization;
- (c) conduct themselves at all times in a manner befitting their status as employees of an international organization. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the Organizations. They shall avoid any action and, in particular, any public pronouncement or personal gainful activity that would adversely or unfavorably reflect on their status or on the integrity, independence and impartiality that are required by that status; and
- (d) observe the utmost discretion in regard to all matters relating to the Organizations both while they are staff members and after their service with the Organizations has ended. In particular they shall refrain from the improper disclosure, whether direct or indirect, of information related to the business of The World Bank or the IFC.

3.2 All rights in any work produced by staff members as part of their official duties shall belong to The World Bank or the IFC unless such rights are explicitly relinquished.

Privileges and Immunities

3.3 Staff members shall enjoy, in the interests of their Organizations, privileges, immunities, and facilities to which the Organizations, their officers and employees are entitled under their respective Articles of Agreement or other applicable treaties or international agreements or

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other laws. Such privileges, immunities, and facilities shall not excuse staff members from the performance of their private obligations or from the due observance of the law. Having regard to the particular circumstances, the Organizations may decide whether, in the interests of the Organizations, an immunity shall be waived or invoked.

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Staff Rule 8.01
Page 1 of 6

DISCIPLINARY MEASURES

1. SUBJECT AND APPLICABILITY

Subject

1.01 This Rule governs the use of disciplinary measures by the Bank Group and sets forth the forms such measures may take. This Rule, as revised, is effective July 1, 1997.

Applicability

1.02 This Rule applies to all staff members.

2. RELATION TO RULE 9.03 (APPEALS COMMITTEE)

2.01 Any disciplinary measures taken pursuant to this Rule shall be a "formal disciplinary action" for purposes of Rule 9.03, "Appeals Committee."

3. MISCONDUCT

3.01 Disciplinary measures may be imposed whenever there is a finding of misconduct. Misconduct does not require malice or guilty purpose. Misconduct includes, but is not limited to, the following acts and omissions:

- (a) Failure to observe Principles of Staff Employment, Staff Rules, and other duties of employment (e.g., failure to observe Bank Group health and safety regulations or personnel information policies; failure to observe Bank Group information disclosure policies; unauthorized use of Bank Group electronic data bases; unauthorized use of Bank Group offices, equipment, and computer resources; abuse of authority; the condonation or willful failure to disclose knowledge of the misconduct of other staff members, where it is subsequently determined the staff member could reasonably have been expected to come forward; intentional or reckless disregard of duty; gross negligence in the performance of assigned
-

Staff Manual

- duties; absence from duty without justifiable cause; abuse or misuse of Bank Group benefits and allowances);
- (b) Reckless failure to identify, or failure to observe, generally applicable norms of prudent professional conduct; failure to perform assigned duties or performance of assigned duties in an improper or reckless manner; failure to know, and observe, the legal, policy, budgetary, and administrative standards and restrictions imposed by the Bank Group; undertaking an activity where authority to do so has been denied; failure to exercise adequate control and supervision over the execution of assigned tasks; and use of Bank Group funds or property for improper purposes; retaliation against those who in good faith bring allegations of misconduct to the attention of management or who avail themselves of the Bank's grievance system; willful misrepresentation of facts intended to be relied upon;
 - (c) Acts or omissions in conflict with the general obligations of staff members set forth in Chapter Three of the Principles of Staff Employment and Rule 3.01, "Outside Activities and Interests";
 - (d) Misuse of Bank Group funds or other public funds for private gain in connection with Bank activities or employment, or abuse of position in the Bank for financial gain;
 - (e) Acts that violate applicable criminal law (e.g., theft, fraud, felonious acts, use or possession of illegal drugs, physical assault); and
 - (f) Harassment, including harassment on the basis of age, race, color, sex, sexual orientation, or national origin.

4. DISCIPLINARY MEASURES

4.01 Disciplinary measures imposed by the Bank Group on a staff member shall be determined on a case-by-case basis, taking into account the seriousness of the matter, extenuating circumstances, the situation of the staff member, the interests of the Bank Group, and the frequency of conduct for which disciplinary measures may be imposed, except that termination of service shall be mandatory where it is determined that any of the following misconduct has occurred:

THE WORLD BANK GROUP

CODE OF PROFESSIONAL ETHICS

Being a staff member of the World Bank Group offers a unique opportunity to contribute to the institution's mission: to reduce poverty and improve people's living standards throughout the world. Bank Group service also entails certain obligations: to promote the objectives of the World Bank Group; to serve with probity, integrity, and impartiality; and to hold oneself to the highest standards of professional ethics.

Staff members of the World Bank Group are expected to perform their assigned duties with the highest level of technical competence and efficiency. They are also expected to treat fellow staff members in a courteous, professional manner—free from any form of harassment or discrimination—and thus benefit from working in a diverse, multinational workplace. Staff members who serve as Managers should provide staff reporting to them with honest, clear and constructive evaluations of work free from bias or favoritism.

To meet the highest standards of professional ethics, staff members should:

- observe the policies, rules and procedures adopted by the World Bank Group, including rules relating to situations of conflict of interest, and report to supervisors any departure by other staff members from such policies, rules, or procedures;
- pay due regard to the appropriate use of World Bank Group resources;
- undertake official actions without being influenced by personal relationships or considerations;
- act within the scope of their authority;
- retain full accountability and responsibility for tasks delegated to other staff and exercise adequate control and supervision;
- consult appropriately with fellow staff and managers to ensure that decisions are based on full and accurate information consonant with the weight of the decision, and provide decision-makers with candid analysis;
- respect the dignity and privacy of colleagues in their personal lives.

Staff members should adhere to the same standards of professional ethics in their dealings with member governments and all others with whom they come in contact by virtue of their work.

In fulfilling these obligations, staff members should be mindful of the requirements imposed on staff by the Articles of Agreement, the Principles of Staff Employment, and the Staff Rules which apply to the Bank, IFC, and MIGA, in particular, of Chapter 3 of the Principles which relates to the general obligations of staff members and Staff Rule 3.01, Outside Activities and Interests, which implements that Chapter.

Staff members encountering a situation that may pose an issue of professional ethics may seek advice from their manager and/or consult with the Ethics Officer or the Ombudsman.

* Staff members should refer to the Staff Manual for familiarization with all requirements of Staff Rule 3.01, "Outside Activities and Interests," which includes provisions on disclosure and use of inside information, on disclosure of financial and business interests, and where applicable on financial disclosure statements of senior staff. Provisions of the Articles are set out in Attachment 1 and Chapter 3 of the Principles of Staff Employment in Attachment 2.

Articles of Agreement

Article V, Section 5(c) of the Articles of Agreement of the Bank (and corresponding provisions in the charters of other Bank Group institutions) provides that:

"The President, officers and staff of the Bank, in the discharge of their offices, owe their duty entirely to the Bank and to no other authority. Each member of the Bank shall respect the international character of this duty and shall refrain from all attempts to influence any of them in the discharge of their duties."

Principles of Staff Employment

Chapter 3 of the Principles of Staff Employment (which applies to MIGA as well as the Bank and IFC) provides as follows:

" The sensitive and confidential nature of much of their work requires of staff a high degree of integrity and concern for the interests of the Organizations. Moreover, as employees of international organizations, staff members have a special responsibility to avoid situations and activities that might reflect adversely on the Organizations, compromise their operations, or lead to real or apparent conflicts of interest. Therefore, staff members shall:

(a) discharge their duties solely with the interest and objectives of the Organizations in view and in so doing shall be subject to the authority of the President and responsible to him;

(b) respect the international character of their positions and maintain their independence by not accepting any instructions relating to the performance of their duties from any governments, or other entities or persons external to the Organizations unless on secondment to them or employed by them while on leave of absence from The World Bank or the IFC. Staff members shall not accept in connection with their appointment or service with the Organizations any remuneration, nor any benefit, favor or gift of significant value from any such governments or other entities or persons, nor shall they, while in the service of The World Bank or the IFC, accept any medal, decoration or similar honor for such service. Staff members may retain employment rights or pension rights acquired in the service of another organization;

(c) conduct themselves at all times in a manner befitting their status as employees of an international organization. They shall

not engage in any activity that is incompatible with the proper discharge of their duties with the Organizations. They shall avoid any action and, in particular, any public pronouncement or personal gainful activity, that would adversely or unfavorably reflect on their status or on the integrity, independence and impartiality that are required by that status; and

(d) observe the utmost discretion in regard to all matters relating to the Organizations both while they are staff members and after their service with the Organizations has ended. In particular they shall refrain from the improper disclosure, whether direct or indirect, of information related to the business of The World Bank or the IFC.

All rights in any work produced by staff members as part of their official duties shall belong to The World Bank or the IFC unless such rights are explicitly relinquished.

Privileges and Immunities

Staff members shall enjoy, in the interests of their Organizations, privileges, immunities, and facilities to which the Organizations, their officers and employees are entitled under their respective Articles of Agreement or other applicable treaties or international agreements or other laws. Such privileges, immunities, and facilities shall not excuse staff members from the performance of their private obligations or from the due observance of the law. Having regard to the particular circumstances, the Organizations may decide whether, in the interests of the Organizations, an immunity shall be waived or invoked."

MEMORANDUM: Support Payments to Former and Legally Separated Spouses

(This memorandum is intended principally for the use of counsel.)

1. Section 5.1(c) of the World Bank Staff Retirement Plan provides for two ways of authorizing the payment of amounts for support to former or legally separated spouses from periodic pensions payable under Section 3.1, 3.2, and 3.3 of the Plan. These pensions are the normal retirement pension, the early retirement pension, and the reduced early retirement pension. Section 5.1(c) also provides for the payment of such amounts from a lump sum payment commuted under Section 4.4(a) of the Plan by the same means. These payments, to the extent authorized, will be paid only if and when the pension or lump sum becomes payable to a retired participant. The amount authorized to be paid to the former or legally separated spouse may not exceed the amount otherwise payable to the retired participant.
2. Section 5.1(c) permits the payment of these amounts in cases where the retired participant is under a legal obligation arising out of the marital relationship to provide support to the former or legally separated spouse. Section 5.1(c) provides for the authorization of the payment either by direction of the participant or the retired participant or pursuant to a final decree of a court of competent jurisdiction. The Bank will not interpret agreements between spouses or former spouses, directions to pay or decrees of courts in cases of ambiguity or resolve questions where there is a bona fide dispute about the efficacy, finality or meaning of a decree. In these cases, the Bank will retain the amount disputed pending the resolution of outstanding questions by the parties themselves. Where the Bank is requested to give effect to a decree of a court by a person other than the participant or retired participant, no payment will be made sooner than 60 days after the Bank has received notice of the request accompanied by a certified copy of the decree. During such 60 days, the Bank will notify the participant that, on a specific date, payment to the spouse or former spouse will be made or commence in the absence of credible objection received by the Bank before that date.
3. The payment will be made only to the spouse or former spouse (or a personal representative) and may not be assigned or pledged. The Bank will not make payments to assignees, mortgagees or other pledgees. A payment from a lump sum under Sec. 4.4(a) of the Plan will be made in United States dollars only. Other payments will be paid in single currency, which will be the currency specified in the final court order, if any; or a currency in which the pension of the retired participant is paid if it is also the currency of the country where the spouse maintains the spouse's principal residence; or if there is no such currency, in United States dollars.
4. All rights in assets of the Plan, including amounts payable under the Plan, belong to the Bank as provided in the Plan. The Bank will not give effect to provisions of agreements, directions or decrees which purport to divide the pension pursuant to a division of marital or community property or otherwise to establish or convey an interest in the assets of the Plan, pensions or other benefits. Once a series of continuing payments commences, it will not be terminated, nor, where the amount of the payments is level, the amount reduced unless it is demonstrated to the Bank's satisfaction that the underlying obligation has terminated or its level diminished. The adoption of Section 5.1(c) or the payment of amounts pursuant to it does not create a fiduciary obligation from the Bank to a spouse or former spouse nor make the spouse or former spouse a beneficiary of the Plan. The Bank undertakes no obligation of notice or responsibility regarding a retired participant's compliance or failure to comply with other provisions of agreements, orders or decrees.

FOR YOUR INFORMATION

TO ALL STAFF

FYI/94/029
November 15, 1994

STAFF RETIREMENT PLAN REVISIONS

Support Payments for Ex-Spouses

1. I am pleased to advise that the Executive Directors have approved an amendment to the Staff Retirement Plan to permit payments from the Plan for the support of divorced or legally separated spouses of retired Plan participants. The amendment, which becomes effective January 2, 1995, was supported by the Staff Association, the 1818 Society and the World Bank Volunteer Services.
 2. The amendment provides for these payments as follows:
 - (a) Support payments to former and legally separated spouses can be made out of normal or early retirement pensions and from lump sum commutations. Such payments become payable only if and when the pension or lump sum becomes payable to a retired participant, and their amounts may not exceed what would otherwise be payable to the retired participant.
 - (b) These support payments may only be made in cases where the retired participant is under a legal obligation to provide support to the former or legally separated spouse. Payments can be authorized by either the written direction of the participant or retired participant or pursuant to a final decree of a court of competent jurisdiction.
 - (c) If the Bank is requested by a person other than the participant or retired participant to give effect to a final decree of a court ordering support payment, it will notify the participant or retired participant. Where the Bank is in doubt about direction to pay a decree, it will retain payments pending its resolution by the action of the principals, the retained sum to be paid without interest when the doubt is resolved. The Bank will not give effect to provisions of agreements, directions or decrees intended to convey an interest in the assets of the SRP, pensions or other benefits.
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Any such payment payable after the death of the person to whom it otherwise would have been paid may be paid to a spouse surviving the deceased person.

(c) A participant or a retired participant, pursuant to a legal obligation arising from a marital relationship to support one or more former spouses, or a spouse from whom there is a decree of legal separation, may direct that a specified amount or part of a pension payable under Section 3.1, 3.2, or 3.3, or of a lump sum payment commuted from such a pension under Section 4.4(a) shall be paid to one or more such former spouses or the spouse. If the participant or retired participant is obligated by a final order of a court to direct that such a payment be made, the Benefits Administrator shall pay the pension or lump sum payment accordingly after receipt of the order; provided, however, that neither the participant, retired participant, nor the Benefits Administrator may convey an interest in the Retirement Fund of the Plan or in the pension or other benefits of a participant or retired participant to any person. The amount or part of a pension payable pursuant to such an obligation may be increased at any time by a participant or retired participant. The payment may be decreased when the obligation diminishes, and the payment shall terminate when the obligation terminates, provided, in each case, that the participant or retired participant furnishes evidence satisfactory to the Administration Committee of such diminution or termination. No payment hereunder pursuant to a final order of a court will be payable sooner than the end of the month which is at least 60 days after the Benefits Administrator has received an authenticated copy of the order.

(d) Distribution of the entire benefit payable on account of a participant or retired participant shall commence no later than the beginning date required under applicable governmental regulations. Distribution may continue over a period no longer than the longest of (i) the life of the retired participant, (ii) the lives of the retired participant and a designated beneficiary, (iii) the life expectancy of the participant or retired participant or (iv) the joint and last survivor life expectancy of the participant or retired participant and a designated beneficiary.

(e) If a retired participant dies after distributions to him have begun, all death benefits shall be distributed at least as rapidly as under the method of distribution being used on his death.

(f) If a participant or retired participant dies before distributions to him have begun, the death benefits shall be distributed (i) over a period no longer than the longer of the life or life expectancy of a designated beneficiary (and distribution shall begin no later than December 31 of the calendar year after the year of the participant's or retired participant's death or a later date prescribed in applicable governmental regulations), or (ii) in

- (d) Once a series of continuing payments commences, the amount will not be reduced unless it is demonstrated that the underlying obligation has diminished.

3. It is worth emphasizing that, by allowing for the direction of pension payments to former spouses, the amendment changes only the distribution of payments of existing benefits. It does not create any new benefits, nor a fiduciary obligation to a spouse or former spouse, nor make the spouse or former spouse a beneficiary of the SRP.

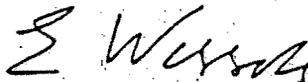
4. Attached is a memorandum prepared by the Legal Department for use in framing directions to pay or court decrees consistently with this new provision. This memorandum is intended principally for the use of counsel. Staff members, retirees and their spouses who are initiating proceedings for divorce or legal separation should draw it to the attention of counsel.

Effective Date and Termination of Pensions

5. Prior to this amendment, the Staff Retirement Plan provided that most pensions would become effective on the first of the month following the month in which the participant retired. Thus, for a participant who retired in the middle of a month, there would be a gap between the payment of salary and the payment of pension. This amendment provides that pensions can become effective on the day following retirement, with a fraction of the monthly amount payable for the month in which the pension becomes effective. Similar provisions apply to the month in which the pension ceases.

Questions

6. Copies of the revised Plan document reflecting these changes can be picked-up from MC4-438 or by sending an All-in-One message to PENSION. If you have questions about these changes, please contact the Pension Department on Extension 82977.



Everardo Wessels
Director
Personnel Services & Compensation

Attachment



Organización de los Estados Americanos
Organização dos Estados Americanos
Organization des États Américains
Organization of American States

17th and Constitution Ave., N.W. • Washington, D.C. 20006

Date: 04/09/98

Ms. Kay Basil
Bureau of International Organizations
United States Department of State
Washington, D.C. 20520

RE: Request for Information on Policies and Procedures for Providing Information on Salaries and Benefits of GS/OAS Staff Members to Courts, for Garnishment of Staff Remuneration, and for Spousal Access to Pension Benefits

Dear Kay:

As we discussed at last Thursday's meeting in your office, the OAS General Secretariat ("GS/OAS") has a long-standing policy of prohibiting staff members from hiding behind the Organization's privileges and immunities to avoid their personal responsibilities to the community, and in particular, to their families. In that regard, I am enclosing a copy of GS/OAS Staff Rule 101.9, which sets out that policy in greater detail.

At the close of the meeting, you asked me to confirm in writing the specific practices followed by the General Secretariat in responding to specific requests from courts for information on a staff member's salary and benefits; garnishment orders; and qualified domestic support orders ("QUADRO"). Our response follows below:

1. Judicial Requests for Information

The General Secretariat responds to all judicial requests for information on the salary and benefits of its staff members by providing the information requested, provided the request is reasonable. Requests are generally considered reasonable if they are not overbroad and will not require the Secretariat to devote an inordinate amount of staff time and resources for the response. In responding to requests for information, GS/OAS advises the Court that it is immune from judicial process, but that it will provide the information requested voluntarily in light of its general policy of cooperating with local authorities on matters of this nature. It adds that in no way is its voluntary response to the court's request to be construed as a waiver of its privileges and immunities. Subsequently, GS/OAS informs the staff member concerned that it has received and answered the request.

2. Garnishment Orders

When GS/OAS receives a garnishment order, the Department of Human Resources ("DHR") calls the staff member in to advise him of his obligations to comply with the laws of the host country, including court orders. It further tells the staff member that if he does not voluntarily pay what is ordered, the Secretariat will waive immunities regarding any assets it holds for his account and will comply with the order. GS/OAS will also remind the staff that it considers failure to comply with a court order a breach of the Organization's loyalty oath and of the standard of conduct required of international civil servants, and that his persistent refusal to comply with those orders will result in disciplinary action, including the possibility of dismissal.

To this date, GS/OAS has not had to garnish or discipline a staff member for noncompliance with a court order. To the best of our knowledge, all delinquent staff members have taken the above-mentioned GS/OAS warnings seriously and have complied with their obligations.

3. GS/OAS Pension Benefits

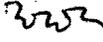
Under the terms of the OAS Retirement and Pension Plan, only those employees who entered the Plan prior to 1981 are allowed to assign their pension benefits. All other employees are prohibited from assigning those benefit and their survivor benefits are paid out automatically to the surviving spouse and/or minor and/or disabled children. Presently, the OAS Retirement and Pension Committee, which serves as the Plan's Trustees, is evaluating proposed Plan amendments which would permit post-1980 Plan participants to assign pension benefits as part of a domestic relations settlement or for the limited purpose of complying with a domestic relations order.

To this date, GS/OAS has had no complaints regarding post-1980 participants in the Plan and their spouses. Problems regarding the pre-1981 Plan participants involved in domestic relations disputes have been settled by convincing them to assign irrevocably plan entitlements as required.

If the Plan is not amended to permit assignment of benefits by post-1980 participants, the Plan Trustees will have to determine, when and if it receives the first QUADRO for those participants, whether it will waive the Plan's immunities and submit to the Order. The ultimate decision will rest on the Committee's assessment of the probability that the OAS Administrative Tribunal would find that compliance with the QUADRO a violation of the Plan. Our preliminary opinion is that the probability of such a finding is remote. Nonetheless, the issue has not yet been fully evaluated and we have yet to render a final opinion.

I hope that the foregoing information will be helpful for your response to the National Security Council on these issues. Should you require further assistance, please do not hesitate to ask.

Very truly yours,



William M. Berenson
Director, Department of Legal Services

Cc R. Avila
N. Laporte
L. Lizondo
L. Zark

Rule 101.9 Conditions Governing Privileges and Immunities

(a) Any and all privileges and immunities accorded to staff members by the Member States by way of agreement, legislation, or custom and practice, are granted in the interests of the General Secretariat and not for the personal benefit of the individuals themselves. The Secretary General may waive the immunity of any staff member in any case, where in the Secretary General's opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organization.

(b) Without prejudice to the above-mentioned privileges and immunities, it is the duty of each staff member to respect the laws of his duty station or of any Member State in which he is on Mission or to which he is otherwise assigned.

(c) Prior to leaving his duty station, retiring, or otherwise separating from service, a staff member who is not an immigrant or citizen of the duty station country and against whom a civil action is pending in any court in his duty station in relation to activities for which there is no immunity under the corresponding agreements and laws, or for which immunity has been waived, must appoint an agent resident in the duty station. The staff member shall authorize that agent to receive process relating to the civil action, and in the event a final judgment is issued against the staff member, to receive salary, pensions, and other remuneration due him from the General Secretariat, so that such salary, pensions, and other remuneration may be available to satisfy the judgment. In the event the staff member fails to appoint that agent, the General Secretariat shall have the authority to appoint an agent for him and may do so. Any agent so appointed pursuant to this paragraph shall be resident in the duty station, or in any other locations which the General Secretariat deems appropriate.